Ofcom

Broadcast and On Demand Bulletin

Issue 552, 24 August 2026

Complaint by Professor Geoffrey Chase about *Panorama: Lucy Letby – Who to Believe?*

Type of case	Fairness and Privacy
Preliminary View	Not upheld
Service	BBC 1
Date & time	11 August 2025, 20:00
Category	Fairness
Summary	Ofcom has not upheld this complaint about unjust or unfair treatment in the programme as broadcast.

Case summary

The programme examined concerns that had been raised over the convictions of former nurse Ms Lucy Letby for the murder, and attempted murder, of 14 babies at the Countess of Chester Hospital in 2023 and 2024. The programme included comments relating to the findings of an international panel of experts, commissioned by Ms Letby's legal defence team, which challenged the medical evidence relied on by the prosecution in her trial. The programme looked at evidence, including insulin testing, which the panel claimed did not prove that any of the babies were deliberately harmed.

The programme included an interview with the complainant, Professor Geoffrey Chase, about his research on insulin/C-peptide ratios, which the programme said the international panel relied on when reporting that *"the insulin to C-peptide ratio for babies F and L were within the expected range for preterm infants".* Professor Chase complained that he was treated unfairly in the programme as broadcast because his contribution had been edited to "grossly misrepresent" his views and "place them in a false context".

Ofcom found that Professor Chase's contribution was edited fairly, and that the broadcaster had taken reasonable care to satisfy itself that material facts had not been presented, disregarded, or omitted in a way that was unfair to him.

Programme summary

On 11 August 2025, BBC 1 broadcast an edition of the current affairs programme, *Panorama*. The programme, titled *Lucy Letby – Who to Believe?*, considered concerns raised about the evidence which led to Ms Letby's conviction. The programme focused on challenges to some of the medical evidence put forward by a panel of *"international experts"*, and the potential *"problems"* with this *"new defence evidence"*. The reporter, Ms Judith Moritz, introduced the programme:

> *"It's one of the most divisive convictions in British history… A nurse jailed for murdering babies in her care... Serious concerns have been raised about the Lucy Letby case… A panel of international experts says: 'no crimes were committed'… But Panorama's found problems with the new defence evidence too… And Letby's original defence expert says these flaws are jeopardising her case… So, who should we believe about Lucy Letby".*

Part of the programme focused on the *"unanimous verdicts"* returned by the jury in relation to 'Baby F' and 'Baby L'. Ms Moritz, said:

> *"For many of those who are sure Lucy Letby is guilty, the strongest evidence comes from two other cases – the ones involving insulin. The prosecution argues that they showed someone at the Countess of Chester Hospital was deliberately poisoning babies. Once you accept that, they said, the other allegations are easier to accept too.*
>
> *This time, the evidence comes from a lab test on a blood sample. It works by measuring insulin and a substance called 'C-peptide'. When insulin is produced naturally by the body, you'd expect to find 5 to 10 times as much C-peptide"*

The programme included an interview with Professor John Gregory, described by the reporter as *"an expert on insulin in babies… not involved with the prosecution or defence"*, and identified in the captions as a *"Professor of Paediatric Endocrinology"*. He said:

Prof Gregory: *"When you measure insulin, if you don't find any C-peptide, that implies that the insulin has come from outside the body, perhaps in the form of an injection, for example.*

Ms Moritz: *What would you conclude where a baby has low blood sugar, where the baby's insulin level is in the thousands, and where the baby's C-peptide is low or unmeasurable?*

Prof Gregory: *I would conclude that the baby has had insulin administered somehow or other".*

The interview ended and Ms Moritz continued:

"That's what was found in two of the babies Letby was convicted of harming. The first insulin case was 'Baby F' in August 2015, the second was 'Baby L' eight months later. Baby L's recorded insulin levels were 1099 picomoles per litre. If it was natural, you'd expect 5 to 10 times as much C-peptide, but the level was just 264.

The ratio was even more extreme with Baby F. His recorded insulin level was a sky-high 4657, and his C-peptide was less than 169. The prosecution argued that the babies' intravenous feedbags had been deliberately spiked with insulin".

Part of an interview with Ms Letby's defence barrister, Mr Mark McDonald, was included in this section of the programme:

Ms Moritz: *"How important is the insulin evidence in the case?*

Mr McDonald: *The prosecution referred to it as a 'smoking gun', because of course there was no other direct evidence. There's no one who had seen Lucy do anything, so they relied upon a blood result that had been found years later".*

Ms Moritz explained that, in the opinion of the panel of international experts, the insulin test, called immunoassay, *"is not reliable and the sample should have been checked using other methods"*. The programme then included footage of the second reporter, Mr Jonathan Coffey, in interviewing Dr Adel Ismail, who was described in captions as a *"Clinical Biochemist"* and *"expert assisting Lucy Letby's defence"*:

Dr Ismail: *"It* [immunoassay] *actually has the highest error rate of any other biochemistry results we produce. Without verification, thorough verification, it must never be interpreted at face value.*

Ms Moritz: [in voiceover] *It's true that the immunoassay test can make mistakes, but even Letby's experts accept it's accurate around 98% of the time.*

Mr Coffey: *You* [Dr Ismail] *ran a lab, an NHS lab, for 30 years. Did you use immunoassays?*

Dr Ismail: *Extensively.*

Mr Coffey: S*o, the test must be useful?*

Dr Ismail: *The test is useful in the majority of cases, but we have to verify it. In Lucy Letby's case the results are not verified, not checked, and therefore, in my opinion, it is completely worthless".*

A photograph of Ms Letby was shown alongside an image of a document titled *"International Expert Panel – Lucy Letby Case"*. Ms Moritz said:

"Even if the tests are accurate, Letby's experts say they may not prove the babies were poisoned. Their report is based on the idea that when it comes to insulin, premature babies are different and that 'the insulin to C-peptide ratio for babies

F and L were within the expected range for preterm infants' [quote also shown on screen].

[Footage of Professor Chase walking through a busy train station was shown].

It relied on the work of a mechanical engineer who carries out biomedical research [Professor Chase]. *He says he has research that shows there's a natural explanation for high levels of insulin and low levels of C-peptide in premature babies.*

The programme then included part of an interview with Professor Chase and Mr Coffey. Professor Chase was described in the captions as *"Professor of Mechanical Engineering, Expert assisting Lucy Letby's defence"*:

Prof Chase: *"Preterm infants in these studies have these antibodies that can bind to insulin and effectively store it. It acts like a bank account, and it stores it in the body and doesn't clear.*

Mr Coffey: *For Baby F, C-peptide is less than 169. The insulin is over 4,500. It says in this report that that is within the expected range for preterm infants, is that accurate?*

Prof Chase: *It is not the best word choice, to be direct. We would say the words 'not uncommon'.*

Mr Coffey: *Is it normal?*

Prof Chase: *There is no definition of normal for a preterm neonate. Because nobody measures these infants regularly, nobody knows what normal is".*

Ms Moritz explained that *"The experts we've spoken to say the insulin to C-peptide ratio is extraordinary, and the baby's dangerously low blood sugar levels is further evidence the insulin wasn't natural"*. The programme included further footage from the interview with Professor Gregory:

Ms Moritz: *"Is there any plausible scenario in which those levels of insulin could have been naturally produced by the baby?*

Prof Gregory: *I can't think of any plausible explanation for such high insulin levels. I think finding insulin concentrations of that order in a newborn baby is exceedingly unlikely to have arisen from naturally produced insulin, and the absence of significant C-peptide simply underlines that point".*

The interview with Professor Chase continued:

Mr Coffey: *"Pretty much everyone that we ask about this, says that that ratio is extraordinary, but you say that they're wrong?*

Prof Chase: *No, I'm actually not saying that they're wrong. What I'm saying is that it is possible. I would say that it is unusual, is unusually high. It is possible".*

The interview with the complainant ended. Ms Moritz said:

> *"If Lucy Letby's expert is right and premature babies are different, it could unravel the prosecution case. But the medical specialists we've spoken to are baffled by his claims, and the defence won't share his research with us".*

The programme included more of the interview with Mr MacDonald, who confirmed that he was not going to share Professor Chase's *"report"* with the programme. He said:

> "*Look it'd be very easy for me to say, 'look here's the full report', but I'm not going to do that because it's not the place to litigate that on a TV programme".*

The segment then concluded with the following exchange between the programme's two reporters:

Ms Moritz: *"I remember in the trial the prosecution saying to the jury that the insulin evidence is the strongest bit of evidence in the case. And, when you look at the way the jury returned their verdicts, first of all they came back first with the insulin babies.*

Mr Coffey: *I think where we net out is that the insulin evidence is not perfect, but it remains very strong, and it remains the strongest evidence in the case".*

The programme moved on to other aspects of Ms Letby's case and the evidence against her, with no further reference to the complainant or his interview. Ms Moritz concluded the programme:

> *"The stakes couldn't be higher. Depending on which experts are believed, Letby could spend the rest of her life in prison or be set free. She's a monster, or a victim. If Lucy Letby's lawyer is successful… her case will end up at the Court of Appeal, and that's when the expert evidence on both sides of this debate will face a true reckoning. There's no end in sight to the arguments about Lucy Letby's guilt, no end to the disputes about why 14 babies collapsed and seven of them died, no end to the suffering of their parents.*
>
> ***
>
> *A jury found Lucy Letby guilty of unimaginable crimes. Now that certainty is being undermined by the fierce disputes about the evidence that convicted her".*

The programme ended.

Summary of the complaint and broadcaster's response

Complaint

a) Professor Chase said that he was treated unjustly or unfairly in the programme as broadcast because his contribution had been edited to "grossly misrepresent my views and my statements and place them in a false context". In particular, Professor Chase complained that:

i) The programme stated inaccurately that "Letby's experts'" [i.e. the "panel of international experts" referred to in the programme as "assisting" Ms Letby's defence] idea that "the insulin to C-peptide ratio for babies F and L were within the expected range for preterm infants…relied on the work of [Professor Chase]".

Professor Chase explained that this was inaccurate because he had "never said *'within the expected range'* in any context", but that he had "explicitly stated" in his report that high ratios were "not uncommon". He said that the two terms "have distinct meanings and are not interchangeable", and that during the interview, he had explained to the interviewer the "difference in wording" and that there "are no norms defined for pre-term infants and thus… no such thing as an 'expected range'". Professor Chase added that his use of the phrase "not uncommon" was "heavily caveated in the context of infection (and other influences)", which he said he had explained during his interview. The complainant said that this "critical context" was missing from the programme and that this omission misrepresented him by "presenting an absurd scientific concept as if it were a concept I uphold and endorse".

By way of giving context to this element of complaint, Professor Chase said that the BBC had claimed in correspondence with him that the expert panel report, which summarised Professor Chase's work, had used the term "expected range". However, Professor Chase said that the expert panel had used the phrase in "the context of infection and other factors", which he said he had explained during his interview. He added that there was no basis to support that the phrase "expected range" was applicable in the context of the programme. Professor Chase said that it was "simply inaccurate" and that it was misleading with respect to his position. He said that given that he had "cleared up any ambiguity/confusion the BBC may have felt, multiple times, regarding the phrase 'expected range', [the BBC] had a duty to reflect this point in the programme".

ii) The programme misrepresented Professor Chase as having said that "pre-term infants, in these studies, have these antibodies that can bind to insulin and effectively store it. It acts like a bank account, and it stores in the body and doesn't clear**"**. Professor Chase said that there was "no record" in the interview transcript of him saying this, and that his "words [had] been cut together" to give the impression that he was referring to his own research, which, he said, was not the case. Professor Chase said that he had explained during the interview that his work was based on "350 peer-reviewed sources" and "currently known facts", whereas the programme had implied that his work was "not peer-reviewed and thereby not valid". Professor Chase said that it was unfair to him to misrepresent his position as "unsubstantiated in science" when it was "based on extensive published and peer-reviewed research".

The programme misrepresented Professor Chase as having said, in relation to the views of other experts on the insulin/C-peptide ratios, that *"I'm actually not saying*

that they're wrong. What I'm saying is that it is possible. I would say that it is unusual, is unusually high. It is possible". Professor Chase said that this was "very different" to what he had actually said in interview, which was, that he had "explained that the numbers look unusual because of missing data" and that "*'possible'* in this context means 'extremely possible'". Professor Chase added that he had "also quantified… that 'possible' meant 'at least 10% chance of occurring'" and that, "in the context of [Ms Letby's case], where reasonable doubt plays a role", to omit this detail and "leave the idea it is very unlikely" was misleading and misrepresented his position.

Professor Chase said that the programme relied on "selective editing and implication, rather than using what I said directly". He said that as a "highly respected, internationally recognised academic and world leader… in dosing insulin to pre-term neonates", it was "potentially damaging to be misrepresented as advocating a scientific position which would universally, in relevant scientific circles, be recognised as absurd". Professor Chase said that he had provided all the essential details to Mr Coffey in the interview, but that the resultant programme misrepresented this "to the point of having me appear to be reversing my position under pressure".

Professor Chase further said that the programme stated that *"He says he has research that shows there's a natural explanation for high levels of insulin and low levels of C-peptide in premature babies"*. However, Professor Chase said that the programme had misquoted him as he had never said that C-Peptide levels were "low". He said that throughout the interview, he noted that the C-Peptide levels were 20-45th percentile in the datasets that he had, and that "while this level is below 50%, it was not the 'low' or unmeasurably low they imply". He said that the levels were "well-within a range seen in peer-reviewed and published data". Professor Chase said that to misquote him in this way misrepresented "his actual, quantified, and factually stated position in the interview".

b) Professor Chase complained that he was referred in the programme as being *"Letby's expert"*, which he said was "pejorative" and part of an "overall strategy of diminishing my position and thus the relevance of what I had to say". Professor Chase said that he was "appointed as an expert witness by [Ms Letby's] defence team" to "represent the true science to the court without bias to one side or other of the case". He said that any suggestion that he had "an allegiance to one side, or another" was a direct attack on his scientific and professional independence, integrity, and reputation for academic excellence.

By way of adding context to this element of complaint, Professor Chase said that the BBC programme mirrored the agenda of a book, titled: Unmasking Lucy Letby, which was written by Mr Coffey and Ms Moritz, who Professor Chase said were "the BBC correspondents and show editors", and that the book was published on the same day as the programme was broadcast. He said that the book and the programme contained "identical misrepresentation" and that there was a clear "conflict of interest resulting from this issue, and the "failure to contradict their book despite information from Professor Chase doing so directly". Professor Chase said that despite "this conflict of views, at no point was I offered a right to reply before either publication or programme screening".

Broadcaster's response

a) The BBC responded as follows:

i) *References to "within the expected range"*

The BBC said that it was established medical opinion that a greater concentration of insulin than C-peptide indicates that the insulin has not been produced naturally by the body and has instead been given exogenously (i.e. administered externally). It said that in this context, the blood results for Babies F and L were "deeply alarming", and that prosecution experts at the Letby trial stated under oath that the only explanation for the blood results was that the babies had been given exogenous insulin. The BBC said that the complainant "has a theory" about the storage of insulin in babies which can, in his judgement, lead to mistaken diagnosis and an exaggerated estimate of risk to health, resulting from a mistaken analysis of readings. It said that the panel of experts took note of this and made reference in its report to an "expected range" for readings.

The BBC said that, in the complaint to Ofcom, Professor Chase stated that the term "expected range" was qualified in the expert panel's report by the words "in the context of infections and other factors". It said, however, that these words do not appear in the parts of the panel's report that had been made available to them, and that if the words were to be found in a full version of the report – which was the subject of limited distribution and had not been made available to the programme makers – the programme could not have been expected to take this into account.

The broadcaster said that the term "expected range" was quoted in questions put to the complainant during interview and was first attributed in the programme to the report of the expert panel. It said that a viewer would therefore have understood that, during the interview, Professor Chase was being invited to comment on the claim, in the report, that levels on insulin and C-peptide in Babies F and L "were within the expected range". It said that, as was made clear to viewers, the complainant suggests an alternative "best word choice" (i.e. "not uncommon"). The BBC said that the complainant had expanded on this suggestion in his unedited interview but that, for reasons of conciseness, this answer was left out of the programme. It added, however, that the fuller answer did not depart from or meaningfully alter the sense of what Professor Chase had said in the extract of the interview shown in the programme. The BBC said that, in the complaint, Professor Chase claimed that he had "cleared up any ambiguity/confusion the BBC may have felt… regarding the phrase 'expected range'". It said, however, that from the evidence of the interview it was clear that the complainant did not dismiss the use of the term but instead offered an alternative wording. The BBC said that the transcript of the unedited interview did not support the complainant's submission that what he had said in interview was "very different" from the extract shown in the programme and demonstrated that the edited version was fair and accurate. It said that if the complainant disagreed with the account of his research findings in the published report of the expert panel, then he had not publicly taken any steps to correct the record.

References to "infection"

The BBC said that it acknowledged that the complainant had referred to infection in the unedited interview, and that this was not included in the broadcast programme. It said that the interview was edited concisely to permit the central point of Professor Chase's argument about the phenomenon of bound insulin in neonates to be presented with clarity. It said that, while it was the case that infection could influence the levels of antibodies in sick babies, it would not account for the very high levels of insulin in Babies F and L found in

laboratory tests. The BBC said that the programme explored significant areas of doubt concerning the evidence against Ms Letby, focussing on essential ideas and arguments. It said that the programme did not pretend to convey evidence and analysis in detail.

The BBC said that the central thrust of the complainant's analysis was based on naturally occurring antibodies and that he was questioned on this in the interview. It said that it was notable that infection was not mentioned in the annex Professor Chase wrote for inclusion in the international expert panel's summary report, and that, if it was essential to a fair and accurate reflection of the complainant's position the BBC would expect to see it referenced in his own written summary of the position.

ii) *Editing of comments regarding antibodies and pre-term infants*

Referring to transcript of the unedited interview the BBC said that, contrary to his complaint, Professor Chase had stated in his own words that antibodies in pre-term infants can bind to insulin and effectively store it *"like a bank account"*. The BBC said that this was reflected in the programme as broadcast and there was therefore no basis for the claim that the material included in the programme had been manipulated or distorted.

Implication that Professor Chase's work was not peer-reviewed

The BBC said that the complainant's reference to his work having been peer-reviewed by 350 sources was misleading. It said that the complainant claimed in interview that the confidential report that he prepared for Ms Letby's defence cited 350 peer-reviewed articles, however he also said during the same interview that of these 350 articles "10, 20, 30… relate to this particular discussion". The BBC said that later in the interview, this number was potentially lowered to "five" by Professor Chase. The BBC said that the complainant had declined to provide details of any of these "published articles" when asked to do so by the programme makers, and that he had described his research as undergoing a "red teaming", or "self-attack" process.

The BBC said that peer-review was properly understood as a critical evaluation of research manuscripts or clinical performance by experts in the same field to ensure quality, accuracy and safety. It said that the report submitted by the complainant to the expert panel remained unpublished and had not been subject to such a review. It said that the programme makers had given the complainant sufficient opportunity to explain his approach and findings, and that it did not dismiss his research as unsubstantiated (rather, the programme stated: *"If Lucy Letby's expert is right… it could unravel the prosecution case"*).

Professor Chase's comments on the views of other experts

The BBC said that the transcript of the unedited interview showed that the complainant was asked at numerous points during the interview for an overarching probability assessment of the unusualness or extraordinariness of Baby F's insulin/C-peptide ratio. It said that the complainant's position was that the ratio was *"unusually high"*, but also *"possible"* and *"not uncommon"*. The BBC said that this position was faithfully reflected in the programme and the fact that some of the complainant's reasons for holding this position were not included did not mean that the position itself was not fairly reflected. It said that viewers were not misled by the lack of reference to infection and other influences and were told that the complainant *"has research that shows there's a natural explanation for high levels of insulin and low levels of C-peptide in premature babies"*, which was a fair and accurate summary.

Programme misquoted Professor Chase as saying C-peptide levels were "low"

The BBC said that the term "low" in this context did not refer to C-peptide in isolation, but rather to the C-peptide levels relative to insulin levels. It said that, as the interview and the programme made clear, this relation or ratio is the salient scientific question, not the C-peptide value on its own. It said that it was a matter of clinical record that Babies F and L suffered hypoglycaemia and required dextrose, and that this was set out in the programme. The BBC said that in both cases the C-peptide level was low relative to insulin, and that this relation or ratio is what the complainant purports to explain. It said the complainant offers what he claims to be a natural explanation for these values. The BBC said that it was confident that this was conveyed to viewers in the programme as broadcast.

b) The BBC said that the term *"expert"*, in connection with Ms Letby's defence, occurred in the programme by reference to the international expert panel convened by Professor Shoo Lee and the experts relied upon by the panel, which the broadcaster said included the complainant.

The BBC said that the involvement of the panel in Ms Letby's legal defence was of material relevance to assessing the status of the reports of the experts. The BBC said that, regarding Professor Chase's contribution, the published report said that the expert panel "relied on the reports of external experts in engineering, Professor Geoff Chase… for information about insulin and c-peptide"[1]. The broadcaster said that members of the panel, and other experts who have contributed, were described in caption as *"Expert assisting Lucy Letby's international panel"* or "Lucy Letby's International Expert Panel", and that other expert contributors who were of an opposite opinion were described as "Prosecution expert witness". The BBC said that this was to assist viewers by placing the contributions in a relevant context, and that there was no suggestion that the complainant's evidence had departed from objective scientific methods in order to serve Ms Letby's defence.

Preliminary View

Ofcom prepared a Preliminary View that Professor Chase's complaint should be not upheld. Both parties were given the opportunity to make representations on the Preliminary View, which, insofar as they are relevant to the complaint entertained and considered by Ofcom, are summarised below.

Complainant's Representations

Professor Chase disagreed with Ofcom's Preliminary View that there was no unfairness to him in the programme as broadcast.

The complainant said that the issue before Ofcom was not whether his scientific conclusions were correct. Rather, the issue was whether the BBC fairly represented the complainant's evidence and his professional position. Professor Chase said that the Preliminary View repeatedly substituted this for the much lower test of whether the programme conveyed the "central thrust" of his argument, which he said was not the standard required by the Broadcasting Code.

Professor Chase said that, throughout its analysis, Ofcom accepted substantial explanatory material was removed from his interview as broadcast. Namely, the context of infection, antibody prevalence, neonatal norms, missing data and the provenance of the supporting studies. Professor

[1] 'International Expert Panel: Lucy Letby Case – Summary Report', 3 February 2025, p6

Chase said that these omissions were not peripheral detail; they were scientific qualifications that gave the statements their meaning, and that once removed the remaining extracts presented materially different propositions from those he intended to convey.

The complainant said that these factors materially influenced how viewers were invited to assess the credibility and scientific basis of his evidence. Professor Chase said that, for example, throughout the interview he made clear that the phrase "*within the expected range*" was not his own wording, and that he rejected the terminology because no accepted neonatal reference ranges existed. Professor Chase said that his own wording was "not uncommon", which was a phrase used in a carefully qualified scientific context. The complainant said that the omitted explanation was not incidental – it explained why he rejected the programme's framing and why the distinction mattered scientifically. Professor Chase said that without this explanation viewers were left with a materially simplified and misleading understanding of his position. Professor Chase said that, similarly, factors such as infection formed an essential part of the scientific explanation for why elevated insulin / C-peptide ratios may occur naturally, and the BBC's omission of these factors altered the scientific meaning of his evidence.

Professor Chase said that, similarly, the removal of the word "other" from his description of published studies fundamentally altered the provenance of the evidence on which he had relied. The complainant said that the omission created ambiguity as to what literature he was referring to. The complainant said that the programme then followed this by stating that the defence would not share his research and that medical specialists were "*baffled*" by his claims. Professor Chase said that the cumulative effect of this was to suggest that his conclusions rested principally upon unpublished work rather than upon an extensive body of published scientific literature. He said that Ofcom itself had acknowledged that the editing created ambiguity yet dismissed this because it considered the inaccuracy insufficiently serious. Professor Chase submitted that this misunderstood the nature of scientific credibility and that whether evidence derives from published literature or solely from an individual's own unpublished work was central to how viewers assess the reliability of that evidence.

Professor Chase said that the Preliminary View repeatedly concluded that these matters did not result in unfairness because still conveyed the "central thrust" of the complainant's position. The complainant submitted that this was the "wrong test", and that scientific evidence is communicated through careful qualification. Professor Chase said that the removal of qualifying context that determines the meanings of words could seriously misrepresent a scientist, even if they were quoted verbatim. Professor Chase also said that the Preliminary View treated each individual edit separately, whereas the Broadcasting Code requires consideration of overall fairness. He said that the cumulative effect of repeated omissions was to transform a carefully qualified scientific explanation into a sequence of short assertions which appeared unsupported, speculative and isolated from the published evidence on which they were based. Professor Chase said that this cumulative impression was precisely what damaged his professional reputation.

The complainant submitted that, in the Preliminary View, Ofcom appeared to accept several BBC assertions without critical examination. Professor Chase said that the Preliminary View repeatedly relied upon the BBC's own description of his evidence, even when that description itself was inaccurate. For example, Professor Chase said that the BBC stated that he "has a theory" about insulin-binding antibodies, whereas his report "synthesises a substantial body of published, peer-reviewed literature together with established physiological principles to explain the observed findings". The complainant said that the BBC also repeatedly characterised his report as

unpublished, thereby implying the underlying science was unpublished, when in fact the "overwhelming majority" of the evidence on which the complainant's conclusions were based came directly from published scientific literature. Professor Chase added that this was something he had stated repeatedly throughout his interview. Professor Chase said that, more generally, Ofcom appeared to adopt the BBC's interpretation in instances where there was disagreement between the parties. The complainant said that the statutory question in this case was not whether the BBC's interpretation was plausible, but whether the broadcast fairly conveyed Professor Chase's position.

Professor Chase said that, overall, the Preliminary View applied too broad a concept of editorial discretion and too narrow a concept of fairness. He said that, while broadcasters were entitled to edit for length and clarity, they were not entitled to remove the qualifications that give scientific evidence its meaning.

Broadcaster's Representations

The BBC said that it remained of the view that the key points of argument presented by Professor Chase to Mr Coffey were fairly represented and that his position, though edited to provide a concise account to a general audience, was reflected in a fair and accurate way in the extracts from his interview.

The broadcaster said that Professor Chase had objected to the statement in the BBC's submission to Ofcom that he has a "theory" about insulin in pre-term infants. It said, however, that this choice of language did not occur in the programme in the section in which the complainant features. The BBC said that, in fact, viewers are told that the complainant, "*has research that shows there's a natural explanation for high levels"* [broadcaster's emphasis].

The broadcaster said that the complainant had submitted that the BBC repeatedly characterised his report as unpublished, "thereby implying the underlying science is unpublished". It said that this was not a point made in the programme, nor was there any reference to the publication status of any underlying research upon which the complainant said he had relied. The broadcaster said that the programme did not state or imply that Professor Chase's work was unreviewed and drew Ofcom's attention to its consideration in the Preliminary View that it was "unable to identify any claims made as a matter of fact, that the complainant's work was not peer reviewed[2]".

The broadcaster noted Professor Chase's objections to the programme's references to measurements *"within the expected range"*, a term which it said the complainant maintained he rejected. The broadcaster reiterated its submission made in its response to the complaint that the summary report published by the expert panel, when citing Professor Chase's research, said "the Insulin/C-Peptide (I/C) ratio was within the expected range for preterm infants" [broadcaster's emphasis]. The BBC said that it was reasonable to assume that the complainant was made aware of this summary by the panel, and its wording, and that as far as the BBC was aware this wording had not subsequently been revised. The BBC said that, when the term was put to him in interview, he described it as "not the best word choice" preferring, "not uncommon". It said that the significance of the distinction between "expected range" and "not uncommon" was open to debate and that in any case, both the question and the complainant's answer was presented to viewers, who were in a position to take account of Professor Chase's preference for an alternative form of words. It said that there was therefore no risk of misleading viewers.

[2] See "*Implication that Professor Chase's work was not peer-reviewed*", p20

Decision

Ofcom's statutory duties include the application, in the case of all television and radio services, of standards which provide adequate protection to members of the public and all other persons from unjust or unfair treatment in programmes in such services.

In carrying out its duties, Ofcom has regard to the need to secure that the application of these standards is in the manner that best guarantees an appropriate level of freedom of expression. Ofcom is also obliged to have regard, in all cases, to the principles under which regulatory activities should be transparent, accountable, proportionate and consistent and targeted only at cases in which action is needed.

In reaching its decision, Ofcom carefully considered all the relevant material provided by both parties. This included a recording of the programme and transcript of it, and both parties' written submissions, including those made in response to Ofcom's Preliminary View. After careful consideration of the representations, we considered that the points raised did not materially affect the outcome of Ofcom's Preliminary View to not uphold the complaint.

When considering complaints of unjust or unfair treatment, Ofcom has regard to whether the broadcaster's actions ensured that the programme as broadcast avoided unjust or unfair treatment of individuals and organisations, as set out in Rule 7.1 of the Ofcom Broadcasting Code. In addition to this rule, Section Seven (Fairness) of the Code contains "practices to be followed" by broadcasters when dealing with individuals or organisations participating in, or otherwise directly affected by, programmes, or in the making of programmes. Following these practices will not necessarily avoid a breach of Rule 7.1 and failure to follow these practices will only constitute a breach where it results in unfairness to an individual or organisation in the programme.

In considering this complaint, Ofcom had regard to the following Code Practices:

Practice 7.6: "When a programme is edited, contributions should be represented fairly".

Practice 7.9: "Before broadcasting a factual programme, including programmes examining past events, broadcasters should take reasonable care to satisfy themselves that material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation…".

Ofcom's role in this case is not to determine the accuracy or otherwise of statements made about the complainant in the programme, nor the validity or scientific merit of his work. Rather, our role is an adjudicatory one to consider whether the broadcaster took reasonable care not to present, disregard or omit material facts in a way that resulted in unfairness to the complainant. Whether a broadcaster has taken reasonable care to present material facts in a way that is not unfair to an individual will depend on all the particular facts and circumstances of the case, including, for example, the way in which an individual is portrayed, the seriousness of any allegations made against them, the context in which such allegations are made, and whether the individual had the opportunity to respond.

We considered Professor Chase's complaint that he was treated unfairly in the programme as broadcast because his contribution had been edited to "grossly misrepresent my views and my statements and place them in a false context".

It is important to emphasise from the outset that it is an editorial decision for the programme makers and broadcaster to select and edit material, including interview footage of a contributor, for inclusion in a programme. Programmes may be edited in a way that contributors might not expect, and while, this does not, in itself, necessarily amount to unfairness to them, broadcasters must ensure that editing is done in a manner that represents their contribution fairly.

Ofcom considered each head of complaint in turn:

a) In assessing whether the complainant's contribution to the programme had been edited unfairly, Ofcom carefully examined the full unedited footage of the interview with Professor Chase and compared it with what was included in the programme. We took into account that, during the unedited interview, Professor Chase was asked about his role in relation to Ms Letby's case and about his findings as follows (with the text included in the programme in **bold** and *italics*):

Mr Coffey: *"What was your role and what were your principal findings?*

Prof Chase: *I think there's, again, the two questions: Was insulin given? And the very short answer is, it is extremely unlikely. The reason for this – and this is the important bit – insulin sticks to everything, large molecules tend to be sticky, right, if you use superglue or anything like that it's made of large, long molecules and they get interconnected and they become sticky, if you will. Insulin does what's called adsorption, with a D instead of a B, and it sticks to not only the infusion line, but it also sticks, in the case of suspected poisoning by the TPN or the Total Parenteral Nutrition sac, it sticks to that sac. It also degrades in sunlight. It also degrades over time in temperature.*

So, if you look at all those variables and the range of possibilities, it would have required somewhere between point 6 of a vial of insulin and 6. Point 6 of a vial is 6 millilitres, a teaspoon is 5 millilitres for comparison for the viewer, yet in the trial no insulin is reported as missing. Had insulin been reported as missing there'd be a separate question. So, that is the first question. You can then say, okay, you know, and I'm not saying you agree with me or not, say, "Alright, great, Geoff". The second question is how do you explain this? The straightforward answer is that there are insulin binding antibodies that will bind and effectively store insulin. Assay's see it, particularly the Roche assay, as insulin, but as insulin it is not active, and it clears extremely slowly, so it can build up. I can give you uh, more detail on how insulin builds up, if you wish, but in essence it binds. Now, how common is that? And the answer to that is that we have a range of studies,

anywhere from 3 to 97% of infants with no parental history of diabetes are born with such insulin binding antibodies, being preterm and in NICU is a slightly increased risk factor. Equally, if you receive certain antibiotics, which at least one of these infants received, or you're suffering infection, which both of these infants had suspected sepsis and were receiving GEN-3, GEN-4 antibiotics, then, of course, those rates climb. If we go with um, Olympic scoring, for the sake of argument, we throw out the 97, we throw out the 3, the numbers remaining are between about 30% and 75%.

Mr Coffey: *Just clarify what you're referring to there, 30 to 75%...*

Prof Chase: *Of* ***preterm infants****.*

Mr Coffey: *Have what?*

Prof Chase: ***In these other studies, have these antibodies that can bind to insulin and effectively store it.***

Mr Coffey: *And what effect does that have in this, that is of relevance to this case?*

Prof Chase: ***It acts like a bank account, and it stores it in the body and doesn't clear".***

The interview continued with Mr Coffey asking the complainant to explain further the extent to which the insulin in Babies F and L could have accumulated over time and whether the high insulin ratio in these cases could be attributable to this. Later in the interview, Mr Coffey asked Professor Chase whether the international panel's statement that Baby F's insulin to C-peptide ratio was *"within the expected range"* was *"accurate"*:

Mr Coffey: *"So, let's focus on the ratio* [of insulin to C-peptide for Baby F]*… so it says that this ratio, over 4500 to less than 169…*

Prof Chase: *20 odd something to 1.*

Mr Coffey: *For the viewer,* ***C-peptide is less than 169, the insulin is over 4500. It says in this report that that it's within the expected range for preterm infants****.*

Prof Chase: *Was that for the I over C ratio or for C-peptide?*

Mr Coffey: *That insulin C-peptide ratio is within the normal, within the expected range for preterm infants.* ***Is that accurate?***

Prof Chase: ***It is not the best word choice, to be direct.*** *So, if you look at the one-page summary that myself and my colleague co-wrote,* ***we would say the words 'not uncommon'.*** *So, there*

are studies out there of preterm NICU[3] babies, insulin and C-peptide match measurements, no exogenous insulin given, and you find ratios well over 1, well over 4, over 5. Not as high as the other one at 25 but, what you find is that about 44% of those ratios are greater than one. What was said at trial was that it would be almost impossible to get a ratio greater than 1 over 20 or 1 over 10. So, I would say that it is in the realm of possibility to have a very high ratio and there are higher ones, admittedly for adults, out in the literature.

Mr Coffey: *I mean, the report says that that ratio, less than 169 to over 4500, was within the expected range for preterm infants.*

Prof Chase: *That is their choice of words, not mine. My choice of words is in the one-pager that was appended to that.*

Mr Coffey: ***Is it normal?***

Prof Chase: ***There is no definition of normal for a preterm neonate**. So, what you want to get your head around first is how these norms are developed. So, for an adult the normal range for C-peptide, if you don't have diabetes or some other condition, is 190 to a higher number, I forget the exact number. Okay, that is made by simply a wide range of people a number of times at various ages, and so on. And then a panel will come together and assess that as a norm, it's typically published, and they are occasionally updated. There is no such norm in preterm neonates or even for neonates, because preterm, in particular, are very tiny babies, have tiny blood volumes. So, that study's not something people want to volunteer for.*

Mr Coffey: *So, you're saying it's a knowledge gap, we don't know how unusual or usual it is?*

Prof Chase: *No, and, for example with the C-peptide measurements of 169, which is a number we've used for a lack of anything better, and 264, 244, some such number, 264 I think. Then what you have are numbers in other data sets, and I have access to a number of them, those values fall from the 20 to 44 percentile of values. So, they are within the range of a large data set, a set of data sets that I have.*

Mr Coffey: *Neonatologists and endocrinologists that we've spoken to, **pretty much** every, **everyone that we ask about this, says***

[3] Neonatal Intensive Care Unit.

that that ratio is extraordinary**, it is extraordinary. **Are you saying that they're wrong?

Prof Chase: ***No, I'm actually not saying that they're wrong. What I'm saying is, that it is possible.***

Mr Coffey: *So, how probable is it?*

Prof Chase: *That number comes down to the missing data. The missing data is the lack of a measurement at the time for antibodies, because it was retrospective – nobody followed up at the time – and it comes down to a lack of knowledge when you toss in hypoglycaemia, to having any estimate of endogenous glucose production and substrates.*

Mr Coffey: *So, you would not say that that ratio is abnormal or extraordinary?*

Prof Chase: *No. **I would say that it is unusual, it's unusually high, it is possible".***

The interview continued as Mr Coffey asked the complainant about the "likelihood", or "probability" of a natural explanation for the ratio seen in the case of Baby F. Later in the interview, Mr Coffey asked the complainant to explain further how "unusual" the ratio was:

Mr Coffey: *"I just want to get a clearer sense of how, you said it was unusual, this ratio, if it were observed in a baby. How unusual are we talking about? How likely is it that a baby, preterm infant, would have a C-peptide value of less than 169 and an insulin value of over 4500? How likely is that?*

Prof Chase: *There's no way to put that. This goes to the fundamental thing, our two points. One, preterm infants are not small adults; two, you look at those values, and how likely they are depends on norms. What we could do, is we could go out raise some money, you and I, and we could go get the ethics consent and find appropriate hospitals and we could start making measurements.*

Some of the study data that we have from other places, with relatively large cohorts, over 50. What they tend to show and, published in a crappy little journal called the BMJ, what they tend to show is that 45% of infants have an I over C ratio greater than 1 – 44, some such number, alright.

*And that's already deemed impossible, you're already into the land of extraordinary. But, **because nobody measures these infants regularly, nobody knows what normal is.***

Mr Coffey: *So, you're saying: 'We don't know how likely or unlikely this is?'.*

Prof Chase: *No".*

Ofcom turned now to consider each of the sub-heads of complaint relating specifically to the editing of the interview and it is presented in the programme:

i) We first considered Professor Chase's complaint, reiterated in his representations on Ofcom's Preliminary View, that his contribution had been edited to give the inaccurate impression in the programme that he had used the phrase "*within the expected range"* in reference to the insulin to C-peptide ratio for Babies F and L. Professor Chase said that he had never said this in any context, rather, his report explicitly stated that high ratios were "not uncommon", and that there were "no norms" for preterm infants and therefore "no such thing as an 'expected range'".

We considered that Professor Chase had been given an opportunity to comment specifically on whether it was accurate for the expert panel's report to state that the insulin to C-peptide ration for Baby F was "*within the expected range".* Professor Chase's response was included in the programme as follows:

> *"It is not the best word choice, to be direct. We would say the words 'not uncommon'… There is no definition of normal for a preterm neonate. Because nobody measures these infants regularly, nobody knows what normal is".*

We recognised that only a comparatively small part of Professor Chase's interview was included in the programme, and that in the unedited transcript the complainant had provided a more detailed answer about what was meant by the phrase "not uncommon", including setting out the additional context around the presence of antibodies and factors such as infection, and clarification that available studies indicated that *"it is in the realm of possibility to have a very high ratio",* and that such ratios could be seen *"within the range of a large data set, a set of data sets that I have"* and *"how likely they are depends on norms".* The complainant also provided a detailed explanation of how norms are developed and why there were no norms for preterm infants in this regard, namely "*because preterm, in particular, are very tiny babies, have tiny blood volumes. So, that study's not something people want to volunteer for"* (as set out in detail above).

We noted the complainant's submission, made in response to the Preliminary View, that the omitted explanation comprised "scientific qualifications" that gave his broadcast statements meaning and that without this detail viewers were left with a materially simplified and misleading understanding of his position.

We took into account the BBC's submission that the fuller exchange about wording choice was left out of the programme for reasons of conciseness, but that the edited response did not depart from or meaningfully alter Professor Chase's position, namely, that the recorded insulin and C-peptide levels were "within the realm of possibility". We also took account of the BBC's argument that, while the complainant had referred to infection in interview, this was edited to ensure that Professor Chase's central point about bound insulin in neonates could be presented with clarity. We recognised that the complainant, in responding to Ofcom's Preliminary View, disagreed that reflecting the central thrust of his argument

represented his evidence or professional position sufficiently fairly in the programme. However, it is an editorial decision for the broadcaster as to what material to include in a programme, provided it does not result in unfairness.

Ofcom recognises that there may be occasions where it is editorially necessary for a broadcaster and programme makers to condense contributions for clarity and accessibility. We took into account the overall context of the programme – that is, a current affairs programme on BBC1 broadcast during peak hours which examined contrasting interpretations of complex medical and forensic evidence offered by both the prosecution and defence experts in the Lucy Letby case. We considered that the programme was intended to be comparative, not exhaustive, and for a general audience. We therefore accepted that it may have been necessary to edit down Professor Chase's lengthy and highly technical interview for audience comprehension in an hour-long current affairs programme.

Having carefully compared the unedited footage of Professor Chase's interview with the footage included in the programme as broadcast, we did not consider that the complainant's comments about whether the insulin to C-peptide ratio was *"within the expected range for preterm infants"* had been taken out of context or were unfair in how they represented Professor Chase's position. While we acknowledged the complainant's additional submissions in his representations on the Preliminary View, in Ofcom's view, the edited excerpt included in the programme as broadcast was a fair reflection of the complainant's overall position throughout the interview that no established norms or expected ranges exist for insulin or C-peptide in preterm infants, and that measurements such as those in Baby F are "not uncommon" in this population. In particular we considered that viewers were likely to have understood from Professor Chase's response as included in the broadcast programme that *"within the expected range"* was the choice of words of the expert panel, not the complainant, and that he did not consider it to be accurate – preferring instead to use the phrase *"not uncommon"*. We also considered that his response in the programme had made it sufficiently clear to viewers that Professor Chase's position was that it was not possible to establish such norms for preterm neonates. In Ofcom's view, this was consistent with Professor Chase's stated position as set out elsewhere in the interview and, as it was set out in his complaint to Ofcom.

Taking all the factors set out above into account, Ofcom considered that the edited exchange represented Professor Chase's evidence fairly, in that it accurately conveyed the central thrust of his position as expressed repeatedly across the full interview, in a manner that was likely to be accessible to the intended audience. While Professor Chase has said that the editing resulted in the loss of "careful qualification" so that his contribution appeared "unsupported, speculative and isolated", we considered there was no particular scrutiny of Professor Chase's position in the programme beyond the different expert opinion, which was put directly to the complainant in his interview. We therefore concluded that taking account of the context of the programme as a whole, it did not present Professor Chase's views in a way that was unfair to the complainant.

ii) <u>*Editing of comments regarding pre-term infants*</u>

We considered the complaint that the programme misrepresented Professor Chase as having said that "pre-term infants, in these studies, have these antibodies that can bind to insulin and effectively store it. It acts like a bank account, and it stores in the body and doesn't clear". We understood Professor Chase's position to be that there was "no

record" in the interview transcript of him saying this, and that his "words [had] been cut together" to give the impression that he was referring to his own research, which, he said, was not the case.

As set out above, it is an editorial decision for the programme makers and broadcaster to select and edit material for inclusion in a programme.

The transcript of the unedited footage above indicated that Professor Chase had said *"Preterm infants in these other studies have these antibodies that can bind to insulin and effectively store it. It acts like a bank account, and it stores it in the body and doesn't clear"*. Professor Chase's statement in the programme as broadcast was preceded by Ms Moritz's introduction of the complainant, in which she said that "[Professor Chase] *says he has research that shows there's a natural explanation for high levels of insulin and low levels of C-peptide in premature babies".*

We acknowledged that the statement *"in these other studies"* had been edited to remove the attributing word *"other"*. In Ofcom's view, this left a degree of ambiguity as to the provenance of the studies referred to and there was, therefore, the potential for some viewers to be left with the impression that Professor Chase was seeking to support his position with studies he had carried out himself. We recognised Professor Chase's submission, reiterated in his representations on the Preliminary View, that this was inaccurate and misrepresented his position as "unsubstantiated science" because his work was based on peer reviewed sources and published research – i.e. the "other studies". We recognised that, in his representations made in response to the Preliminary View, the complainant said that the removal of the word "other" altered the provenance of the evidence upon which he had relied, and that the absence of this scientific qualification had resulted in the programme presenting a materially different proposition to what the complainant had intended. On balance, however, Ofcom remained of the view that this inaccuracy did not result in unfairness to Professor Chase in the programme as broadcast.

In reaching this view, we took account of the wider context of the programme as a whole – namely, a current affairs programme examining and contrasting interpretations of complex and contested medical and forensic evidence offered by both the prosecution and defence experts against a backdrop of claims that Ms Letby's convictions were unsound. We considered that it would have likely been clear to viewers that the arguments put forward were based on complex information in relation to which there was a disparity in expert opinion. We also considered that viewers would have understood this to be the context in which Professor Chase's contribution was included in the programme, and that the complainant's view was one particular expert view regarding the reliability of the insulin/C-peptide evidence submitted during Ms Letby's trial.

We acknowledged the complainant's submission, set out in his representations on the Preliminary View, that the removal of the word "other" – along with subsequent references to medical specialists being "*baffled*" by his claims and his research not being shared with the programme – had the cumulative effect of reducing the credibility and/or reliability of his work. Having taken into account the overall context and presentation of Professor Chase's interview it was, in Ofcom's view, likely to have been sufficiently clear to viewers that, in Professor Chase's opinion, the evidence indicated that the C-peptide to insulin ratios seen could be attributed to natural physiological factors. The programme did not allege that

Professor Chase's view was incorrect and there was no particular scrutiny of his position in the programme beyond the inclusion of a different expert opinion. The points raised in this contrasting expert opinion were also put directly to the complainant in his interview which, for the reasons set out below in relation to the point of complaint concerning the validity of Professor Chase's work, we did not consider resulted in unfairness to him. Further, there was no comment on the validity or publication status of the evidence on which Professor Chase's findings were based, irrespective of whether this was research he had carried out himself or the published literature of his peers. In the specific circumstances of this case, therefore, while the removal of the word "other" may have resulted in a slight inaccuracy, whether or not viewers interpreted Professor Chase as referring to his own studies or studies carried out by other people was unlikely to affect their opinions of him as an expert or understanding of his position in a way that was unfair.

Taking into account the overall context of Professor Chase's comments and the programme as a whole, while this comment may not have been edited in the way the complainant expected, we did not consider that the alleged inaccuracy in itself had the potential to materially or adversely affect viewers' opinions of Professor Chase or present his views in a way that was unfair.

Implication that Professor Chase's work was not peer-reviewed

Professor Chase also said that the programme had implied that his work was "not peer-reviewed and thereby not valid". Having carefully reviewed the programme, we were unable to identify any claims made as a matter of fact, that the complainant's work was not peer-reviewed. The programme did explain, however, that other experts it had spoken to disagreed with the complainant's position that the insulin/C-peptide ratio in Baby F could be attributed to natural means. In particular, we noted that the Ms Moritz said: *"The experts we've spoken to say the insulin to C-peptide ratio is extraordinary, and the baby's dangerously low blood sugar levels is further evidence the insulin wasn't natural"*. This was followed by comments from Professor John Gregory, who took a different view to the complainant (i.e. that he could not *"think of any plausible explanation for such high insulin levels").* The programme also included concluding statements from Mr Coffey after the segment featuring the interview with the complainant, he said: *"If Lucy Letby's expert is right, and premature babies are different, it could unravel the prosecution case. But the medical specialists we've spoken to are baffled by his claims, and the defence won't share his research with us"*. We recognised that Mr Coffey's summarising of the alleged reaction to Professor Chase's claims indicated that the medical specialists spoken to by the programme makers had been unable to understand the basis for the complainant's position.

In considering whether this resulted in unfairness to the complainant we took into account the context of the programme, i.e. an examination and comparison of the complex and contested medical and forensic evidence offered by both the prosecution and defence in the Lucy Letby case and the potential significance of new arguments put forward by Ms Letby's defence team in support of her innocence. One of the main ways the reporters gathered information was by interviewing a number of experts about their interpretation of the available evidence and information. In Ofcom's view, it would likely have been sufficiently clear to viewers that there were differing opinions and interpretations of the available evidence, and that the arguments put forward were based on complex

information on which there appeared to be no consensus among experts. We considered that viewers were therefore likely to have understood that Professor Gregory and the other experts referred to by the programme were each relaying their own opinion, which they were entitled to give based on their expertise and understanding of the relevant facts. We considered that viewers would have understood this to be the context in which the expert contributors, of which Professor Chase was one, gave their accounts and were unlikely to have taken what was said as unequivocal fact.

In addition, we recognised that Mr Coffey had put the views of other experts on Professor Chase's findings directly to the complainant earlier in the interview by stating *"everyone that we ask about this, says that that ratio is extraordinary",* and the programme had included a response from Professor Chase that in his view such ratios were *"possible"* (as set out in detail in the "Programme summary"). Further, Mr Coffey's summary was followed by an interview with Ms Letby's barrister, Mr McDonald, who responded directly to the allegation that the defence had not shared the complainant's findings with the programme makers. He said:

> *"Look, it'd be very easy for me to say, 'look here's the full report', but I'm not going to do that because it's not the place to litigate that on a TV programme"*.

In Ofcom's view, Professor Chase had been given an opportunity to respond to the criticisms of his work, and that viewers would have realised that his position was to rebut these. We also considered that viewers had been provided with sufficient information to understand that the reported responses to Professor Chase's position from other medical specialists was based on limited information about his work and not the full picture, given that the complainant's full research had not been shared with the programme. Further, it would likely have been clear to viewers that the defence's decision not to disclose Professor Chase's findings to the programme makers was based on Mr McDonald believing that it was inappropriate to do so, rather than due to any concerns about the validity of the complainant's work.

Taking all these factors into account, while we acknowledged that the programme had included criticism from other experts of the complainant's work, for all the reasons set out above we considered that viewers would have been able to add what weight they considered appropriate to what was said and that there was no unfairness to Professor Chase in this regard.

Professor Chase's comments on the views of other experts

Professor Chase complained that the programme had also misrepresented him as having said, in relation to the views of other experts on Baby F's insulin/C-peptide ratio, that *"I'm actually not saying that they're wrong. What I'm saying is that it is possible. I would say that it is unusual, is unusually high. It is possible"*. In his complaint, Professor Chase submitted that this was "very different" to what he had actually said during the interview. As the unedited transcript indicated that the complainant had made this statement during his interview, we understood Professor Chase's complaint to be that his comment was part of a longer response in which he had gone on to explain that the ratio looked unusual because of missing data and had quantified *"possible"* as meaning "extremely possible" or, "at least a

10% chance", and that by editing out this fuller explanation the programme had misrepresented his position.

We acknowledged that the edited statement simplified the complainant's answer in that it did not include the specific evidential basis and supporting detail. We also took account of the broadcaster's response that while some of Professor Chase's reasons for holding this position were not included in the programme, the position itself was fairly reflected. We acknowledged too the complainant's submission on the Preliminary View that reflecting the central thrust of his argument did not fairly represent his position (as at a) i)). There is no requirement for a broadcaster to replicate a contribution in full in a programme - as set out above, the Code allows for concise representation of a position, so long as it does not distort meaning. We again took account of the overall context of the programme (i.e. examining and contrasting interpretations of evidence offered by both the prosecution and defence experts in the Lucy Letby case), and the comparative rather than exhaustive nature of the programme and the audience's ability to understand it.

In considering whether the statement included in the programme was a fair representation of Professor Chase's overall position as regards Baby F's insulin/C-peptide ratio, we took into account that, throughout the unedited 90-minute interview, Professor Chase repeatedly acknowledged the unusualness of the numbers while frequently emphasising both their possibility and the uncertainty due to a lack of norms. For example, in response to Mr Coffey's questioning about the overall probability of Baby F's insulin to C-peptide ratio, Professor Chase stated (in addition to comments included in the broadcast):

> *"I personally would see it as unusual… but that does not mean it is impossible".*
>
> *"Unusual, but not extraordinary once you consider antibodies and illness".*
>
> *"Thousands is necessarily unusual but not impossible".*
>
> *"It is reasonably possible… I'm not talking 1 in a million".*
>
> *"We know it is possible, and we don't know how probable".*
>
> *"There is a realm of possibility to have a very high ratio".*
>
> *"The presence of these antibodies makes it possible".*

In Ofcom's view, Professor Chase repeatedly expressed the same core position that the insulin results were unusual but possible, through natural physiological mechanisms in preterm infants. We therefore considered that, despite omitting the further detail and explanation Professor Chase had provided, the statement *"What I'm saying is that it is possible. I would say that it is unusual, is unusually high. It is possible"* was a fair reflection of the complainant's consistent position expressed throughout the unedited interview.

Taking all the factors above into account, we considered that viewers were provided with sufficient information in the programme as broadcast to understand the central thrust of the complainant's position, and that the programme as broadcast had not distorted or mischaracterised his views in a way that was unfair to Professor Chase.

Programme misquoted Professor Chase as saying C-peptide levels were "low"

Professor Chase also complained that the programme had misquoted him as he had never said that C-peptide levels were *"low"*.

We compared what Professor Chase said in the unedited interview with how the complainant's position was presented in the programme as broadcast. The unedited transcript and footage indicated that the complainant repeatedly rejected the idea that Baby F's C-peptide level was *known* [Ofcom emphasis] to be low. In particular, we noted the following conversation, none of which was included in the programme as broadcast:

Mr Coffey: *"Another claim in the* [international panel's] *summary report is exogenous insulin is unlikely to be the cause of hypoglycaemia because the C-peptide was not low for preterm infants. Now, that's one of several reasons given. Baby Fs recorded C-peptide was less than 169. That is, by definition, low.*

Prof Chase: *No, it's low for an adult. The reference range is 190 to some such number.*

Mr Coffey: *But less than 169 could be anything right down to zero.*

Prof Chase: *That's what they say. But the reality is, is that they threw away that data. So, let's go with a rather particular number of less than 169, which makes no logical sense.*

Mr Coffey: *Which could be zero.*

Prof Chase: *Or it could be 169.*

Mr Coffey: *It, it could be 169, but it could be zero. How can you say it's not low if it can be zero?*

Prof Chase: *How can you say it's not 169?*

Mr Coffey: *It's the step into; this is not low for preterm infants.*

Prof Chase: *So – 169, 168, 160 to 140, right, you're still 20th percentile.*

***

Mr Coffey: *I'm just, we don't know how low it was, so how can you say it isn't low?*

Prof Chase: *So, how can you say then that it is? I'm not saying…*

Mr Coffey: *Well, it's, it's saying here* [the international panel's report] *that less than 169 is, is not low for preterm infants*

Prof Chase: *169, 168, so what?*

Mr Coffey: *But it's less than 169, so it could be anything right down to zero.*

Prof Chase: *It could be 168, you just don't know.*

Mr Coffey: *But if you don't know, how can you say that it's not low when it could be 2, it could be zero, it could be 5? So, that's low, isn't it?*

Prof Chase: *Since we're going to convict somebody of murder or attempted murder in this case, tell me the value with confidence.*

Mr Coffey: *We don't know the value.*

Prof Chase: *So, then you don't know the value and have no idea.*

Mr Coffey: *So, can't say whether it's low or not.*

Prof Chase: *So, let's just go back. We now have an insulin level, right, which is high, and a glucose level which is low, and we ignore the C-peptide, and we ignore the ratios, and we don't want to talk about it. And what we'll talk about is those levels. Antibodies will get you there".*

We took into account that the complainant said that it was misleading for Ms Moritz to introduce him in the programme by saying, *"He says he has research that shows there's a natural explanation for high levels of insulin and low levels of C-peptide in premature babies"*, because his position was that the level of C-peptide in the case of Baby F was not low. We recognised that the programme did not include any of the complainant's specific comments on whether he considered the C-peptide level low. However, having taken the broadcast material as a whole, we did not consider that the programme had distorted the complainant's contribution in a way that was likely to mislead viewers about his position overall.

In reaching this view we took account of the BBC's submission that the use of the term "low" in this context referred to the C-peptide levels relative to the insulin levels in both babies, and that this ratio was the salient scientific question Professor Chase was seeking to explain by offering a natural explanation for these values. We considered that viewers were likely to have understood Ms Moritz to be referring to Professor Chase as having research work to explain a finding that the C-peptide level was low relative to the insulin level. We therefore considered that Ms Moritz's statement fairly reflected the complainant's position (i.e. that there was a plausible natural explanation for the higher insulin levels seen in these ratios for pre-term infants). Even if some viewers were left in doubt as to the meaning of Ms Moritz's statement, we considered that Professor Chase was asked directly about the insulin/C-peptide ratio of Baby F in the programme, and that the broadcast had included his response that high levels of insulin could be explained by *"antibodies that can bind to insulin and effectively store it… and doesn't clear"* and that, as a result, the ratio was *"not uncommon*" and that *"it is possible… it is unusually high. It is possible"* (as set out in detail in the "Programme summary" above). For the reasons set out above in relation to the other heads of complaint, we considered that this was a fair reflection of the complainant's central position. Further, this appeared to be a reflection of what Professor had said in his interview

as indicated in the complaint to Ofcom. Namely, that the levels were "well-within a range seen in peer-reviewed and published data".

Taking all these factors into account, we considered that, while the complainant's interview had been edited substantially when included in the programme and there was no reference to his specific comments on whether the C-peptide level was low, viewers were provided with sufficient information to understand the main point of Professor Chase's argument and that, overall, there was no unfairness to the complainant in the programme as broadcast in this regard.

b) We considered Professor Chase's complaint that he was treated unfairly in the programme as broadcast because it referred to him as being *"Letby's expert"*. Professor Chase said that this was "pejorative" and part of an "overall strategy of diminishing my position and thus the relevance of what I had to say".

We began by considering how the complainant was identified to viewers in the programme. We took into account that the captions described Professor Chase as a *"Professor of Mechanical Engineering, Expert assisting Lucy Letby's defence".* Later in the programme, this was shortened by Ms Moritz, who made one isolated reference to the complainant as *"Letby's Expert"* when summarising the significance of his work in the context of Ms Letby's case. In considering whether this description resulted in unfairness to Professor Chase in the programme as broadcast, we took account of what the complainant said about his role as regards Ms Letby's case in the unedited interview. For instance, during the interview Professor Chase made the following statement, none of which was included in the programme as broadcast:

> *"I'm not saying guilty or innocent… I have a lot of equipoise; I'm not wedded to the outcome. I want to see the facts and the knowledge, and the understanding get out there. The definition of reasonable doubt and what somebody wants to believe or chooses to believe or how they weight that in making a judgement. If it's a Supreme Court of five judges, I think, then that's down to them. I can present what I have. As I said, I'm not here to talk. They should be released or they should be kept in jail forever. I'm here to present the information".*

We noted that Professor Chase did not refer to himself in such terms as *"Letby's Expert"*, rather, the complainant appeared to frame his work as a neutral scientific analysis and stated that he was not necessarily advocating for innocence or guilt. We also recognised Professor Chase's position, as set out in his complaint to Ofcom, that he was asked to "represent the true science to the court without bias to one side or other of the case" and did not have "an allegiance to one side, or another". However, while we acknowledged that the complainant objected to the description of him, we did not consider that the term *"Letby's Expert"* was likely to have resulted in unfairness to Professor Chase in the programme as broadcast.

In reaching this view we had account of the BBC's argument that the report issued by the international panel of experts said of Professor Chase's contribution: "The panel also relied on the reports of external experts in engineering, Professor Geoff Chase… for information about insulin and c-peptide testing. These experts were instructed by those representing Lucy Letby"[4]. We also noted the BBC's submission that members of the panel, and other experts who had contributed, were described in captions as "Expert assisting Lucy Letby's international panel" or

[4] See footnote 1.

"Lucy Letby's International Expert Panel", and that other expert contributors of an opposite opinion were described as "Prosecution expert witness", in order to assist viewers by placing their contributions in a relevant context. We understood that the complainant had contributed a report to the international panel of experts convened by Professor Shoo Lee. The expert panel had then provided its own report to Ms Letby's defence barrister, Mr McDonald, who submitted the panel's report to the Criminal Cases Review Commission as the basis for Ms Letby's case being referred back to the Court of Appeal. Therefore, it appeared to Ofcom that Professor Chase had at least some degree of involvement with the expert panel's work, which was itself coordinated by Ms Letby's legal team. Professor Chase did not dispute this, additionally, in his complaint to Ofcom he clearly stated that he was "appointed as an expert witness by [Ms Letby's] defence team". This was reflected in the programme in the way in which Ms Mortiz introduced the complainant:

> *"Even if the* [immunoassay] *tests are accurate, Letby's experts say they may not prove the babies were poisoned. Their report is based on the idea that when it comes to insulin, premature babies are different and that 'the insulin to C-peptide ratio for babies F and L were within the expected range for preterm infants'. It relied on the work of a mechanical engineer who carries out biomedical research* [i.e. the complainant]*".*

We recognised that Professor Chase had complained that referring to him later as *"Letby's Expert"* was pejorative. However, we considered that the programme had not at any stage claimed that the complainant had not followed appropriate practice or scientific methods in order to reach his conclusions, or that his independence or research had been unduly influenced by Ms Letby or her defence in a way that might call into question the complainant's integrity.

Taking all the factors above into account, we considered that although the complainant objected to the term *"Letby's Expert"* to describe him in the programme, based on the available information and further context set out in the programme about his role and the role of the international panel, this description was unlikely to alter or materially affect viewer's perception of the complainant in a way that was unfair to Professor Chase.

Ofcom has not upheld Professor Chase's complaint of unjust or unfair treatment in the programme as broadcast.