

# Memory

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## Dr James Ost's contributions to the work of the British false memory society

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### ABSTRACT

The British False Memory Society (BFMS) is a registered charity founded in 1993 in response to an epidemic of false claims of past childhood sexual abuse by adults in therapy. The accusers believe they have recovered unconscious memories of a hidden past, but scientific and other evidence raise the possibility of false memories or retrospective reappraisal. The BFMS aims to raise awareness about false memory and to reduce the impact of the resulting false accusations. Dr James Ost was an active member of the BFMS's Scientific and Professional Advisory Board. Three lines of his research were particularly relevant to the work of the BFMS. The first of these was his investigations of retractors. His insights provided a deeper understanding of processes involved in the formation and subsequent rejection of false memories and beliefs relating to such allegations. He also carried out experimental studies providing empirical proof that false memories can be implanted under well controlled conditions. Finally, he carried out, and produced reviews of, surveys of misconceptions about the nature of memory, thus highlighting issues that have major implications for the working of the legal system. Dr Ost also served as an expert defence witness on a number of occasions.

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In May 2004, a member of the British False Memory Society (BFMS) walked into the reception area in the Department of Psychology, University of Portsmouth. She was there for a meeting with Dr James Ost. In late 2002, her adult son, J, had been diagnosed with depression and consequently engaged the services of a therapist. Following counselling, he appeared to his mother to have undergone a complete personality change. Moody and sullen, J would later claim to have been sexually abused in early childhood. Initially he did not disclose the name of the alleged perpetrator(s). Over time, the allegations escalated. J now claimed to have suffered childhood sexual abuse (CSA) at the hands of his deceased father. The allegation caused a seismic shock to family members; his mother was the most acutely affected. "Susan" (identities have been changed) would later write that she felt "trauma of a nature that eclipsed even my husband's death. I cannot tell you ... of the trauma of shock and disbelief I feel". She did not believe the allegations. However, he appeared to sincerely believe that his father sexually abused him between the ages of four and eight. His therapist, moreover, was adamant that the abuse memories were true.

### The courage to heal

Matters escalated further. J began to "recover" new memories of extreme abuse. He accused friends and family,

including his mother, of being part of an organised paedophile ring. Susan was at her wits' end. She made contact with the BFMS in October 2003 seeking advice about what she now believed to be false-memory type allegations and suspecting that her accusing son had undergone hypnotherapy. Significantly, the accuser had read a number of self-help books which were littered around the house he shared with his mother. One of these books was *The courage to heal: A guide for women survivors of child sexual abuse* (henceforth, the CTH), first published in the U.S. in 1988 (Bass & Davis, 1988). As pointed out by Loftus (1993, p. 525) the CTH is "often referred to as the 'bible' of the incest book industry". An international best-seller, it has been re-issued in a number of revised editions and, in 2008, a new edition was published to commemorate the 20th anniversary of the original publication.

The CTH is a self-help book which provides a checklist of indicators which it is postulated are symptomatic of CSA – these may include, for example, anxiety, low self-esteem and eating disorders. Operating at a huge level of generality, the authors argue that even if one cannot remember being abused that does not mean that you were *not* abused. According to Bass and Davis (1988, p. 22), "children often cope with abuse by forgetting it ever happened". This is the case even when the allegations appear to be fantastical, such as alleged abuse by satanic cults involving torture, ritual sacrifice and murder (pp. 417–421). La

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Fontaine (1998), in her study into ritual abuse in the U.K., concluded that the existence of organised satanic cults was a myth, often generated by bad therapy.

The CTH operates as an *aide memoire* to retrieve repressed memories and to then begin the process of healing. The first edition of the book includes such advice as, “If you are unable to remember any specific instances... but still have a feeling that something abusive happened to you, it probably did” (p. 21) and “If you think you were abused and your life shows the symptoms, then you were” (p. 22).

Part 2 of the book includes a subsection entitled “Remembering” which explores different ways of remembering:

#### WHAT REMEMBERING IS LIKE

Recovering occluded memories (those blocked from the surface) is not like remembering with the conscious mind. Often the memories are vague and dreamlike, as if they're being seen from far away. (p. 72)

#### REGRESSION

Another way to regain memory is through regression. Under the guidance of a trustworthy therapist, it is possible to go back to earlier times. Or you may find yourself going back on such a journey on your own with only the prompting of your own unconscious. (p. 72)

If you don't remember your abuse, you are not alone. Many women don't have memories, and some never get memories. This doesn't mean they weren't abused. (p. 73)

At her son's instigation, Susan read through his self-help books. In a letter to the BFMS, she wrote:

Is this a mixture of a vulnerable young man with a habit of cannabis and a very real false memory? Could it be that untrained counsellors put ideas into the head of a deeply troubled young man? I do believe so ...

## The British False Memory Society

Susan was fortunate in that she made early contact with the BFMS who facilitated the meeting with James Ost. The BFMS was founded in 1993 in response to an unprecedented rise in claims of past child abuse by adult accusers following therapy. The accusers typically claimed to have “recovered” repressed memories of abuse during therapy. Put simply, “false memory is the phenomenon in which a person is convinced a memory is true when it is not” (Felstead, 2019, p. 4).

The BFMS is a registered charity regulated by the Charity Commission. It remains unique in that it is the only charity in the United Kingdom working to provide help and support where false memories of historic child abuse are suspected. The BFMS incorporates a telephone helpline to support families affected by the phenomenon of false memory. It offers advice and access to legal assistance. It does not offer counselling services or accept cases involving children who claim to have been abused. On the whole, if new members make early contact with the BFMS, the society tends to make a positive impact. For example,

since 2015, there have been 26 cases featuring police involvement which were ultimately discontinued (no further action). In three separate, unrelated, trials in 2015 (R v R; R v H, R v H), members of the BFMS were found not guilty in Crown Court. In another case in 2016 (R v W), two falsely accused members were acquitted (with formal not guilty verdicts) prior to trial, following expert witness testimony (discussed later in this paper). A jury returned a not guilty verdict following a Crown Court trial in London in 2017 (R v D). Another BFMS member is currently awaiting a re-trial after her partner's convictions were quashed in the Court of Appeal in 2019.

Gudjonsson (1997b) conducted a survey with members of the BFMS. Some 282 families participated in the survey, involving 317 accusing persons. The families tended to be Caucasian, well educated, and middle class. The majority (87%;  $n=276$ ) of accusers were female and the average age of the accuser was 33–34. Where possible, Gudjonsson compared accusers with non-accusing siblings, noting that accusers were more likely than their non-accusing siblings to be either unemployed or working as nurses, social workers or therapists. There was no difference between the two groups in terms of psychological or psychiatric treatment during childhood, but the accusers were more likely to have received such treatment during adolescence and tertiary education.

Gudjonsson (1997c) presented the results of further analyses of the same data set. He noted that the biological father was alleged to have been involved in the abuse in the majority of cases (72.5%; 203 out of 280 cases where accused was identified), either acting alone (50%;  $n=140$ ), with the mother (10%;  $n=29$ ), or with others. Step-fathers were accused in only twelve cases (4%). In 44% ( $n=79$ ) of cases the abuse was alleged to have commenced before the child's fifth birthday, with 10 cases (5%) in which the abuse was alleged to have commenced within the first year of life. Respondents were asked if the abuse claim was based upon “recovered” memories. Interestingly, of the 268 replies to this question, 26 (10%) said this was not the case and a further 46 (17%) said they did not know. Having said that, of 227 respondents who replied to a question about the involvement of therapy, 93% ( $n=210$ ) indicated that the allegations had been made with the involvement of therapy or counselling. Out of 279 responses to a question about the consequences of the allegations, 165 (59%) reported that the accuser had cut all contact with the family. In 37 cases (14%), criminal proceedings had been instigated. Gudjonsson (1997a) followed up the 37 cases which had entered the criminal justice system. Out of these, 23 resulted in police charges. All but three of these cases resulted in prosecution in Crown Court resulting in eight convictions.

Shaw et al. (2017), based upon a unique analysis of the BFMS archive, concluded that accusers typically received a wide range of therapeutic input. This conclusion was based upon an analysis of the types of therapy reported to be received by a sample of 153 daughters accusing

their fathers of sexual abuse. Of that sample, 129 were reported to have received therapy of some kind (in some cases, more than one type of therapy). For the subsample who did receive therapy, this included: psychiatric therapy (30.2%;  $n = 39$ ); individual counselling (23.3%;  $n = 30$ ), and to a lesser extent psychotherapy (9.3%;  $n = 12$ ), church counselling (4.7%;  $n = 6$ ), hypnotherapy (5.4%;  $n = 7$ ) and regression therapy (0.7%;  $n = 1$ ). This information is based on the archival records of the BFMS at the initial point of contact with the accused via a telephone helpline. As with all statistics, this information conceals as well as reveals. For example, in 17.5% ( $n = 22$ ) of cases the nature of therapeutic input remains unknown. As Patihis and Pendergrast (2019) have recently pointed out, “recovered” memories of CSA can be the result of a wide range of therapy types.

### James Ost’s contribution as an advisory board member

The BFMS keeps an administrative file on each member of its Scientific and Professional Advisory Board which records e-mail exchanges and other correspondence between the society and board members. It also keeps records of legal cases and the professional input of advisory board members. Unusually, there are two files on James Ost. The first contains a sample of his journal publications; the second records written communications – mostly by e-mail – between James and the BFMS. James took out membership with the BFMS in 1994 whilst still an undergraduate student at Portsmouth University. He was awarded a PhD, at Portsmouth, in 2000 (a copy of which is lodged with the BFMS). The thesis (Ost, 2000) was supervised by Dr Alan Costall (now Emeritus Professor of Psychology at Portsmouth University). The study was sponsored indirectly via the BFMS.

It is obvious from the notes in the BFMS files that this was an exceptional partnership between student and tutor. This is evidenced by some of James’ co-authored publications (e.g., Ost et al., 2001) and also by the fact that supervisor and student were regular attendees at the BFMS annual conference held in London each year. In 2004, James was invited onto the Professional and Scientific Advisory Board of the BFMS. He was active from the outset and displayed a willingness to engage with, and to assist, the Society, as is evident from his meeting with Susan. For example, in 2007, the BFMS published a short book containing several case studies written by family members detailing their experience of false-memory type allegations. *Fractured Families* (Brand, 2007) was launched in the House of Lords in May 2007. James attended the book launch, together with other advisory board members.

More pertinently, following the BFMS annual conference and AGM in April 2007, James was involved in detailed discussion with the society and advisory board members. Each year, a number of invited speakers attend the conference (James was an invited speaker on

two occasions following completion of his PhD), and in that particular year a speaker from the Human Givens Institute was invited to address the floor. The Human Givens Institute describes itself on its website (<https://www.hgi.org.uk/>) as, “a global organisation concerned with unifying the most effective forms of counselling and psychotherapy into a truly bio-psycho-social approach which incorporates the most effective therapeutic techniques, neuroscientific findings and newly-devised interventions”. The talk was not well received. In e-mail correspondence between James and the BFMS, James opined:

My memory (!) is that some of the claims made on the day were indeed quite extraordinary. As we all know (to paraphrase the by-line of *The Skeptic* magazine) “Extraordinary claims require extraordinary proof”.

The key problem for me was that *no* evidence was given. His Human Givens approach may indeed be wonderful but I need to see evidence in the form of Randomised Controlled Trials (versus waiting lists, CBT, etc.). The only ‘evidence’ (and I use that word advisedly) that was presented at the AGM was in the form of, “One of my patients once told me ...” As any scientist will tell you, anecdotal data of this sort does not constitute evidence of effective treatment. I don’t think that we need to purchase this chap’s book in order to figure out the strength of the evidence ... Unless he can produce a publication in a decent peer-reviewed journal showing that his new method is an improvement on standard treatments then the scientific community has no obligation whatsoever to take any notice at all of his claims (writing a gushing book or five does not make the technique scientific) ...

(personal communication, 17 May 2007)

James applied his knowledge and expertise to a number of live concerns impacting on the society. The records of the BFMS show that James was consulted over a wide range of false-memory type issues, including retractors, expert witness testimony, NICE guidelines, and particular types of therapeutic input (e.g., EMDR) to name but a few. James facilitated two roundtable discussions about retractors at the 2003 AGM and annual conference. In April 2003, he wrote a summary of the discussion which was entitled “retraction”. Here is his overview:

We were lucky to be joined by two retractors who were able to offer unique insights into the processes involved in both the initial accusation, as well as its subsequent retraction. There were (sic) also a mix of accused parents and relatives of accusers who shared their accounts. These accounts were, understandably, at times very emotional and intense, and were imbued with frustration and feelings of powerlessness. Also present at the second session was a journalist from the *Big Issue* magazine.

James summarised the main themes of the roundtable discussions which, for reasons of space, it is not possible to describe further. Yet this example does neatly encapsulate his typical day-to-day involvement with the BFMS. James’ file is easily the largest of our advisory board members highlighting his commitment towards his duties as an advisory board member.

Input from advisory board members in particular cases can have a critical bearing on the overall situation. Initially

some callers to the BFMS helpline assume that the accuser is lying, and a telephone conversation or a personal meeting with an advisory board member can have an impact bigger than the sum of its parts. False memories can become very rich and the images of untrue events generated from a false memory can feel very real to the accuser. The adversarial nature of the U.K. criminal justice system in practice means that often sexual abuse accusers are deemed either to be telling the truth or lying. It can be difficult to find a middle ground which takes into account the possibility of false memory. This is especially true when non-recent allegations of sexual abuse are concerned. Shaw et al. (2017, p. 16) concluded with a clarion call: "We particularly encourage the legal system to move away from a dichotomous view of claims being true or lies, and to better include the possibility of false memories".

What happened to Susan? Her son, for reasons which remain unknown, did not report the allegations to police. However, family breakdown is a common occurrence following false-memory type allegations (Gudjonsson, 1997c; Shaw et al., 2017) and the situation continued to deteriorate. Sadly, there is no magic wand to reconcile inter-familial relationships following allegations based on false memory. Occasionally, accusers do return to families and in a small number of cases the allegations are retracted (e.g., Maran, 2010). Susan's family remained fractured. Her son continued with bad therapy and his therapist was adamant that the allegations about a paedophile ring were true. Both mother and son were later referred to a psychiatric unit.

The main outcome for Susan was a better understanding of her situation. On 18 May 2004, she wrote the following letter:

Dear BFMS,

Thank you very much for asking Dr James Ost if he would see me.

I went down to Portsmouth University on Thursday and had a very helpful and useful time.

He has given me his papers on false memory and suggested books for me to read, which I have since ordered. His professional advice and observations on the case took me forward. I no longer feel so helpless and hopeless.

I know it will be a long haul but since seeing James I'm sure that I will be more open and wiser on how to deal gently with a situation much beyond the level of understanding that I would have had before seeing him. Thank you so much for your organization and the help in cases like mine.

I enclose a cheque for £40.00 which I'm pleased to be able to give you. Dr James Ost would not accept anything for his witness interview.

Yours sincerely

Susan was fortunate, for once an allegation is reported to police, legal proceedings may follow. This would normally include a police interview under caution, and charges may follow. The file is then referred to the

Crown Prosecution Service to decide whether the case should proceed to trial. This is exactly what happened in a recent case known to the BFMS. Patrick Graham, Dr Stephen Glascoe and their co-defendants were accused of being part of an organised paedophile ring. Glascoe, a retired GP, was accused of performing an illegal abortion in the surgery of his medical practice. The accuser made untrue allegations to police that she had been repeatedly abused by a non-existent paedophile ring from the ages of 3–15. The case collapsed at Cardiff Crown Court in May 2018 after it was revealed that the accuser had undergone 229 regression therapy sessions (Brown, 2018). For a commentary on this case, see <https://bfms.org.uk/regression-therapy-factor-yet-another-case-collapse/>.

### James Ost's contribution as a researcher

James was interested in all aspects of memory but there are arguably three strands of his research that were of particular relevance to the work of the BFMS: i.e., his work with retractors (individuals who come to believe that their previous allegations of being the victim of CSA were in fact based upon false memories), his experimental work on false memories, and his work on the prevalence and implications of misconceptions regarding the nature of memory amongst various professional groups and the general public. It goes without saying that the many reviews and thoughtful commentaries on the topic of recovered memories that James produced during his all-too-short career (e.g., Ost, 2003, 2006, 2009, 2013; Ost & Tully, 2015; Wright et al., 2006) provided a valuable resource for both the staff and members of the BFMS in providing informed and up-to-date information regarding this contentious topic.

James' research with retractors formed a major part of his PhD thesis (Ost, 2000) and the basis for a number of subsequent publications (Ost, 2017; Ost, Costall, et al., 2002; Ost & Nunkoosing, 2010; Ost et al., 2001). Of the 22 retractors who were participants in this research, 11 of them were recruited via the BFMS (two respondents were ultimately excluded from analyses). Participants completed a 62-item questionnaire designed to probe their experiences of both recovering memories of abuse and subsequently retracting claims of abuse.

Ost, Costall, et al. (2002) addressed the possibility that "retractors' experiences do not qualify as reliable evidence because retractors themselves may simply be highly suggestible or unreliable witnesses" (p. 155). The basic idea here is that there may be symmetry between the factors that led these individuals to claim that they were abused in the first place and to subsequently repudiate those claims. Analysis failed to support this possibility. In general, it was reported that recovering the memories took a lot less time than gradually coming to reject them. Furthermore, it was reported that respondents felt under greater social pressure to recover the memories than to reject them.

Ost et al. (2001) analysed the same data set to evaluate the suggestion that there were similarities between the reported experiences of retractors and of those who falsely confess to crimes that they could not have committed. This analysis revealed that retractors could indeed be categorised into three groups corresponding to groupings identified in false confession research (Kassin & Wrightsman, 1985). Four (25%) of the accounts corresponded best to the *voluntary* category, insofar as the individuals concerned suspected that they may have repressed memories of abuse prior to entering therapy. Three (15%) of the cases corresponded to the *coerced-compliant* category, insofar as these individuals had reported memories of CSA in order to escape from stressful therapy but without actually really believing that they had been abused. The largest category consisted of 13 cases (65%) that fell into the *coerced-internalized* group. These were individuals who, as a result of therapy, come to believe and, in some cases “remember”, being the victims of CSA. Furthermore, factors that had been identified in the context of false confessions were readily identified in the retractors’ reports including displays of certainty (on the part of the therapist), cutting off contact with anyone who might cast doubt on the claim, undermining confidence in memory, providing an apparently plausible explanation, and so on.

Ost (2017) carried out a reanalysis of the data in light of more recent research into *non-believed memories* (NBMs). NBMs can be defined as “vivid autobiographical memories for events that people no longer believe happened to them” (Mazzoni et al., 2010, p. 1334). Clearly, this definition fits the repudiated claims of retractors. This study addressed the question of whether similar verification strategies were used to assess (and ultimately reject) apparent memories of emotionally significant events (i.e., CSA) in comparison to the less emotionally significant events considered in previous research. It was concluded that, in general, similar strategies were used in both cases (e.g., asking other people, assessing the plausibility of the memories, etc.). Some differences were noted, however. For example, retractors were more likely to be exposed to sources of evidence rather than deliberately seeking them out.

James published numerous experimental studies of false memory using a range of different techniques including the “parental misinformation” paradigm (Ost et al., 2005), the “crashing memories” paradigm (Ost, Vrij, et al., 2002; Ost et al., 2008; Smeets et al., 2009), the memory conformity paradigm (Ost et al., 2006), and the DRM technique (Ost, Blank, et al., 2013). No attempt will be made here to provide a comprehensive review of James’ experimental research due to space limitations (but see accompanying articles in this Special Issue for further details). Instead, we will limit ourselves to a couple of general observations. The first is that James always demonstrated great clarity of thought in his writings. For example, he was always careful to make the important distinction between false beliefs

and false memories (see, e.g., Smeets et al., 2009). There is no doubt that individuals can come to believe with absolute certainty that they were victims of CSA as a result of poor therapy without ever actually recalling any specific memories of such abuse. Of course, such cases are as relevant to the work of the BFMS as those involving detailed recovered memories.

Secondly, James was willing to question general assumptions that others working in the field often took for granted. For example, the DRM technique is the most widely used measure of susceptibility to false memories in the experimental literature and is often assumed to give an indication of general susceptibility to false memories. However, when Ost, Blank, et al. (2013) assessed susceptibility to false memories using both the DRM technique and susceptibility to standard misinformation effects, the two measures did not correlate significantly suggesting that they are not measuring the same thing. It is worth noting that a study by Zhu et al. (2013) did find a small but statistically significant correlation between these two measures but their overall conclusion was that their results “suggest that misinformation and DRM false memories generally involve different mechanisms” (p. 832).

The final strand of James’ research of particular relevance to the work of the BFMS was that relating to surveys of misconceptions regarding the nature of memory amongst professional groups and the general public. In addition to co-authoring two review chapters on this topic (French & Ost, 2016; Ost & French, 2016), James also led a team that carried out a survey of Chartered Clinical Psychologists ( $n = 183$ ) and Hypnotherapists ( $n = 119$ ) regarding their experiences of, and beliefs about, recovered memory, satanic/ritualistic abuse, Multiple Personality Disorder (MPD)/Dissociative Identity Disorder (DID), and false memories (Ost, Wright, et al., 2013). Amongst other findings, analysis of data from the combined group revealed that 27.7% (66 of 238 responses) reported that they had seen clients who remembered abuse from a state of prior amnesia. Furthermore, 22.5% (53 out of 236) indicated that they believed such reports were usually or always essentially accurate whereas 27.5% (65 out of 236) stated that they believed such reports were never or rarely essentially accurate. With respect to satanic/ritualistic abuse, 32.4% (72 out of 222 responses) indicated that they had seen such a case and 38.2% (80 out of 209 responses) indicated that they believed such reports were usually or always essentially accurate. Only 25.8% (54 out of 209) stated that they believed such reports were never or rarely essentially accurate. Regarding MPD/DID, 39.6% (94 out of 237 responses) reported that they had seen such a case and 27.8% (59 out of 212) indicated that they believed such reports were usually or always essentially accurate. Only 26.8% (57 out of 212) stated that they believed such reports were never or rarely essentially accurate. Cases of suspected false memories were reported by 35.9% (55 out of 153)

although 86.5% (205 out of 237) stated that they believed that false memories of childhood sexual abuse were possible. It is clear that many therapists still hold views regarding the nature of memory that are not supported by scientific data.

Some of the Chartered Clinical Psychologists ( $n = 125$ ) and Hypnotherapists ( $n = 88$ ) in this survey also completed a Memory Beliefs Questionnaire (MBQ) consisting of statements about the nature of memory which were either true or false according to the consensus view of recognised memory experts. A final item asked respondents to indicate their own self-assessed knowledge of the academic literature on memory. The MBQ was also completed by 124 undergraduate psychology students during their first week at university. Ost et al. (2017) reported that the Chartered Clinical Psychologists endorsed views on the nature of memory that were in line with the scientific consensus to a greater extent than either of the other two groups. Worryingly, the Hypnotherapists gave the highest ratings for self-assessed knowledge of the academic literature despite scoring lowest in terms of actual knowledge.

According to Mark Pendergrast (2017, p. 19),

although the overt practice of recovered memory therapy lessened, the mindset behind it never disappeared ... Most therapists who specialize in trauma continue to believe in the theory of repression, and many continue to encourage clients to recall mythical abuse memories in order to get better.

This view is supported by James' survey research as well as that of others (e.g., Patihis, Ho, Loftus et al., 2018; Patihis, Ho, Tingen et al., 2014). Following an extensive review of the available evidence, Otgaar et al. (2019, p. 1072) conclude "that the controversial issue of repressed memories is alive and well and may even be on the rise".

### James Ost's contribution as an expert witness

Since its inception in 1993, the BFMS has been contacted by approximately 3,700 individuals and families seeking advice about false-memory type allegations of CSA. The BFMS archive contains quantitative and qualitative information about its members. This data consists of paper files recording communications between the caller and the BFMS including a telephone information sheet outlining basic details about each case. Analysis of recorded data from the BFMS database shows that the peak of allegations was in 1993 and 1994 with 260 and 268 cases respectively reported to the society. Since then, there has been a steady downward trend in reported cases from 197 in 1997, declining further to 124 cases in 1999. The number of cases reported in the four-year period from 2000 to 2003 was 438, or, put another way, an average of 109.5 cases per year. From 2004 to 2014, 448 cases were recorded – representing an average of 40.7 cases each year. Presently the charity is contacted approximately 40–50 times a year. These figures include

professional enquiries. The latter are typically defence solicitors seeking an expert witness.

False-memory type allegations are still prevalent in the U.K. and elsewhere. Indeed, a recent study by Shaw and Vredeveltdt (2019), which examined evidence from the U.K., the Netherlands, France, and Germany, concluded that:

Despite the fact that the concept of repressed memories has been widely criticised by most scientists who study memory, there is evidence that assumptions about repressed memories and the use of memory recovery techniques among therapists remain prevalent phenomena in parts of Europe. (p. 28)

This is a worrying pattern because false-memory type allegations can lead to miscarriages of justice (Burnett, 2016; French & Ost, 2016; Gudjonsson, 1997a; Ost & French, 2016). Overall, in the 20-year period from 1993, approximately 10% of cases reported to the BFMS resulted in conviction. James Ost highlighted the following case to explore the dilemma which police, lawyers, judges and juries have to confront (Ost, 2006, p. 259):

When she was 27, Alice, a successful businesswoman, embarked upon a course of hypnotherapy to help her overcome an eating disorder. The hypnotherapist told her, "You will start to remember things – things that you won't want to remember but they still come flooding back". After six or seven sessions of hypnotherapy, Alice indeed began to recover memories of being sexually abused by her uncle sixteen years previously. Whilst Alice claimed to have always been aware that something was not right in her life, she also claimed that, prior to the hypnotherapy, she had no memory of any episodes of abuse.

Alice later retracted her allegations and therefore her false memories did not result in legal proceedings.

Two recent members of the BFMS were subjected to criminal proceedings. Their accuser had read a number of self-help books including the CTH. During her second counselling session, a therapist suggested that the onset of her depression may be attributable to CSA. The complainant, a troubled individual with a history of mental instability, developed rich false memories of extreme abuse, which included "body memories" (see, for example, the CTH, pp. 74–75). She reported the allegations to police. Her parents were interviewed under caution and later charged. The case was listed for trial in 2016 in the North West of England.

In *R v W* (identities have been changed), expert witnesses were instructed by the defence and by the Crown. Defence and prosecution experts independently examined the complainant's witness statement together with other relevant documentation. Both experts concluded that her recovered memories were sincerely held, but not plausible. After reviewing the expert witness testimony, the prosecutor addressed the court and stated that she no longer wished to proceed to trial; in consequence, the presiding judge returned not guilty verdicts on each count. In legal terms, the ordeal was over. Reconciling a relationship with the accuser has proven to be far more problematic.

James Ost was instructed as a defence expert witness on a number of occasions. According to his file, he “also assisted one police force in developing an interview strategy in a case involving allegations of historic abuse”. The BFMS records show that James was instructed by a defence team in 2012. This was his sixth instruction resulting in James’ first appearance giving live evidence in a courtroom. The case was unusual because it resulted in a second trial following a hung jury. In consequence, James wrote two reports for this particular case. In his initial report, James “raised concerns about the alleged corroboration of the events that had been provided” by a key witness, concluding that the very detailed recollections outlined were very unlikely to be true. The extremely detailed “memories” of historical CSA emerged, moreover, following protracted counselling. James said that “memory conformity” could not be ruled out. Furthermore, the inconsistency of the allegations was concerning. In his second report he wrote:

As noted in my original report, we make records of internally generated events (e.g., dreams) as well as our perceptions of external events. As a result, we are unable to make perfect discriminations between the two events ... Thus a memory of a perceived event may become contaminated by details that originated from internally generated events (i.e., dreams, thoughts, imaginings). This is referred to as a reality monitoring error.

(a copy of the reports remains in the BFMS archive)

The complainant in her witness statement alluded to nightmares, dreams and flashbacks. She claimed that her recovered memories, which emerged during therapy, had been entirely repressed for 19–20 years. James concluded that, in his professional opinion, the narrative of events provided by the complainant and a key witness rang alarm bells which made him “extremely concerned” about the veracity of the allegations:

the quality of the complainant’s memory for the alleged event is largely inconsistent with what would be expected, based on the Psychological literature. This combined with concerns about the circumstances in which the memory of the alleged event returned, means that I have strong reservations about the reliability of the complainant’s recall and evidence.

A jury found the accused not guilty on all counts.

James wrote his last expert witness report in 2016. This was an unusual case in that it involved the much-publicised death in police custody of Sean Rigg. On 21 August 2008, Mr Rigg had been arrested and taken to Brixton Police Station in a van. He was held in the van for several minutes prior to being taken inside the station for processing. Shortly after that, he collapsed and died. The custody sergeant on duty that evening was Paul White. When he was formally interviewed about the events some months later, he claimed that he had checked on Mr Rigg while the latter was being held in the van prior to being brought into the station. He described the interaction in some detail and gave

essentially the same account at the subsequent inquest into the death of Mr Rigg. At the inquest, Mr White was shown, for the first time, CCTV footage that proved conclusively that he had not in fact gone to check on Mr Rigg while the latter was being held in the van.

Mr White was charged with perjury on the assumption that he was deliberately lying in giving an account which clearly did not match reality. James was asked to prepare a report addressing the possibility that Mr White might have sincerely believed the account he gave at the time of giving it. He presented his evidence at the trial at Southwark Crown Court and Mr White was acquitted. James had made it clear in his report that it was, of course, possible that Mr White was indeed lying. However, in light of what we know about the nature of memory, particularly naturally occurring false memories, it was also possible that he had simply made an honest mistake. James’ report drew attention to the fact that Mr White was not formally interviewed about the events until seven months after they had occurred and that it is clear from comments made by him during the interview that he may well have initially been basing his report upon what he thought he must have done on that fateful evening rather than actually recollecting what he did do (e.g., “What I habitually do is ...”). His inaccurate account was not challenged at that first interview even though it would have been known at that time that the CCTV footage proved it to be inaccurate. Assuming that Mr White was not deliberately lying, this would no doubt give him the impression that his version of events was in fact accurate and thus explain why he repeated it under oath at the inquest.

## Conclusion

James Ost first contacted the BFMS by means of a handwritten letter on 12 May 1994 during his second year as an undergraduate at the University of Portsmouth (see [Appendix](#)). He expressed an interest in possibly conducting a study on the phenomenon of false memory and requested relevant literature on the topic. Over the course of the next two and a half decades, as he progressed within the Psychology Department at Portsmouth University from undergraduate to postgraduate, then lecturer, and ultimately to Head of Department, his interest in that topic was maintained. He not only made major contributions to the science of false memory but also applied his knowledge in practical ways through his work for the BFMS. His contribution to the work of the BFMS cannot be overstated but he will also live on in the memories of those who worked with him as simply being one of the kindest, warmest and most helpful colleagues that one could wish for.

## Disclosure statement

No potential conflict of interest was reported by the author(s).



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## Appendix

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 12<sup>th</sup> May, 1994

Dear Sirs,  
 I am a second year Psychology student, studying at Portsmouth. I am writing to you because I am interested in perhaps conducting my third year project based on the phenomenon of False Memory and I am looking for relevant literature on the subject.

I understand that the next issue of the American Journal of Hypnosis is covering this subject and I have been able to get hold of a copy.

However I would be most grateful if you could send me details of more I can obtain more recent research.

I would also be grateful if you could send me details of membership of your society.

Yours faithfully,

*James Ost*

Std. Pack 1

+ Psycho Arns  
 M. Maest.  
 Loftus.