

<p>1 Thursday, 10 March 2022</p> <p>2 (10.00 am)</p> <p>3 THE CHAIR: Mr Sharland, I understand you have an</p> <p>4 application?</p> <p>5 Application by MR SHARLAND</p> <p>6 MR SHARLAND: Good morning, chair. I wanted to raise an</p> <p>7 issue in relation to the first witness, Ms Churcher. As</p> <p>8 I believe you are aware, a new version of the evidence</p> <p>9 proposal topics list was sent to my instructing</p> <p>10 solicitor at 6.55 pm yesterday. Ms Churcher didn't see</p> <p>11 that last night. She has not had an opportunity to</p> <p>12 consider the new documents. I think there are seven new</p> <p>13 documents, and we do have very significant concerns</p> <p>14 about the fairness of expecting her to be able to</p> <p>15 address those new documents without any opportunity to</p> <p>16 consider them and also to consider other possible</p> <p>17 documents that may be relevant.</p> <p>18 The vast majority of other witnesses have had</p> <p>19 a proper opportunity to consider documents before they</p> <p>20 give evidence. I'm not seeking to criticise counsel to</p> <p>21 the inquiry in any way. I understand there is a huge</p> <p>22 amount to do, and part of the reason why this was so</p> <p>23 late is Ms Churcher's witness statement wasn't finalised</p> <p>24 until last Friday. But we do have real concerns about</p> <p>25 the fairness. Ms Churcher will do her best, but it may</p> <p>Page 1</p>	<p>1 be an acceptable way to address that. So thank you for</p> <p>2 raising it.</p> <p>3 MR SHARLAND: Thank you very much, chair.</p> <p>4 MS MOORE: Thank you, chair. We can call Ms Churcher now.</p> <p>5 MS KAREN DEBRA CHURCHER (sworn)</p> <p>6 THE CHAIR: Good morning, Ms Churcher. Just to say,</p> <p>7 I understand there are some documents that you have only</p> <p>8 had recent access to, so I would just ask that you</p> <p>9 answer any questions that Ms Moore puts to you just to</p> <p>10 the best of your ability and explain -- if there are</p> <p>11 questions you are not able to answer without further</p> <p>12 information, if you could explain that.</p> <p>13 Ms Moore, thank you.</p> <p>14 Examination by MS MOORE</p> <p>15 MS MOORE: Thank you. Good morning, Ms Churcher. Could you</p> <p>16 confirm your full name for us.</p> <p>17 A. Karen Debra Churcher.</p> <p>18 Q. You should have a bundle of documents, a folder, there</p> <p>19 in front of you. I may refer you to those and I may</p> <p>20 show documents on the screen which might be a bit easier</p> <p>21 to see. At tab 1 of that folder, you have your first</p> <p>22 witness statement which you made to the inquiry, and</p> <p>23 which is dated 1 November 2021. That will be adduced in</p> <p>24 full, please. The reference for that is <DWF000003>.</p> <p>25 We also have your second statement, which is behind</p> <p>Page 3</p>
<p>1 well be that, in relation to most of these documents,</p> <p>2 she's not in a position to give a particularly helpful</p> <p>3 answer, and what we would suggest is, if she's not able</p> <p>4 to do so today, she does so by a supplementary witness</p> <p>5 statement, which has been what has been suggested to</p> <p>6 a number of the other witnesses, because she does have</p> <p>7 to have a fair opportunity to consider the documents put</p> <p>8 to her and also other relevant documents which she has</p> <p>9 not had a chance to look at.</p> <p>10 I'm not actually applying to ask you to make any</p> <p>11 decision. I just wanted to raise this and explain what</p> <p>12 I think is the best way forward.</p> <p>13 THE CHAIR: Thank you. I appreciate it, Mr Sharland. As</p> <p>14 you say, obviously, we are working at pace and my</p> <p>15 understanding is many of these documents are actually in</p> <p>16 relation to rule 10 applications that have been made by</p> <p>17 core participants so, obviously, the timeframes are such</p> <p>18 that we are in the position that we are in. But I do</p> <p>19 absolutely take your point and my expectation is just</p> <p>20 that the witness answers to the best of her ability.</p> <p>21 Where she's not able to answer because she hasn't had</p> <p>22 time to consider the documents and feels that she needs</p> <p>23 access to additional information, that, of course, is</p> <p>24 reasonable, and, as you suggest, I think making</p> <p>25 a supplementary witness statement at a later point would</p> <p>Page 2</p>	<p>1 tab 2, and that's dated 4 March 2022. Again, that will</p> <p>2 be adduced in full, and the reference is <DWF000022>.</p> <p>3 The reason I'm saying they're adduced, Ms Churcher, is</p> <p>4 it means we don't have to go over everything that's in</p> <p>5 your statement. That's already your evidence to the</p> <p>6 inquiry. We will just focus on some of the key issues</p> <p>7 that the inquiry wants to hear from you about.</p> <p>8 You're a Registered Mental Health Nurse?</p> <p>9 A. Yes.</p> <p>10 Q. You qualified in that profession in 1998, I believe five</p> <p>11 years after having already qualified as a learning</p> <p>12 disability nurse?</p> <p>13 A. Yes.</p> <p>14 Q. Between 1998 and 2014, you worked in a medium security</p> <p>15 forensic unit?</p> <p>16 A. It was low and medium secure.</p> <p>17 Q. Then you moved to work briefly for Boots before,</p> <p>18 in April 2016, starting to work at Brook House?</p> <p>19 A. Yes.</p> <p>20 Q. So during the relevant period -- so when we say that, we</p> <p>21 mean April to August 2017 -- you were working at</p> <p>22 Brook House as a Registered Mental Health Nurse?</p> <p>23 A. Yes.</p> <p>24 Q. Was Sandra Calver your line manager?</p> <p>25 A. Yes.</p> <p>Page 4</p>

1 (Pages 1 to 4)

<p>1 in time to join their use of force training, so whenever</p> <p>2 they started.</p> <p>3 Q. Talking about sort of being selected a lot, and you say</p> <p>4 that it was a kind of unwritten rule that you couldn't</p> <p>5 refuse to be involved in use of force if selected.</p> <p>6 A. (Witness nods).</p> <p>7 Q. Do you remember who told you that or was it --</p> <p>8 A. It was just a word of mouth. It had been mentioned</p> <p>9 a couple of times by longer-serving staff. I wouldn't</p> <p>10 say management, but longer-serving --</p> <p>11 Q. Like who? Do you remember?</p> <p>12 A. Not off the top of my head, no.</p> <p>13 Q. Was it something -- you know, even if it was an</p> <p>14 unwritten rule that you couldn't refuse to be involved,</p> <p>15 did you ever say, you know, "This is getting a bit much.</p> <p>16 I've done two uses of force today" or "I've done five</p> <p>17 this week", for example?</p> <p>18 A. I never refused a C&R. You know that I questioned one,</p> <p>19 because that will be spoken about later, but I never</p> <p>20 refused -- it was part of the job. I enjoyed the job.</p> <p>21 I wouldn't say I enjoyed C&R, but I did it because</p> <p>22 I felt I was good at it.</p> <p>23 Q. Did you ever use -- you talk about yourself as a big</p> <p>24 guy. Do you feel like you ever used that to intimidate</p> <p>25 detainees at all?</p> <p style="text-align: center;">Page 125</p>	<p>1 detainees that wanted a reaction, I would say, from</p> <p>2 officers.</p> <p>3 Q. Did you consider that detained people had a right to</p> <p>4 protest about their conditions at Brook House?</p> <p>5 A. I haven't got any issue with people protesting.</p> <p>6 Q. Was there any particular considerations when thinking</p> <p>7 about using force on someone that's protesting, about</p> <p>8 the fact that they are protesting?</p> <p>9 A. No. It depends on the situation.</p> <p>10 Q. So, I mean, this situation, where there's a group of</p> <p>11 people, and I understand that you say that, you know, it</p> <p>12 escalated, but the initial thing is, a group of</p> <p>13 detainees protesting, refusing to go in for lock-up, as</p> <p>14 I understand. Is there any thought about, "Well, you</p> <p>15 know, they're trying to protest. We should be a bit</p> <p>16 careful about responding too strongly with this"?</p> <p>17 A. You wouldn't reply with force unless it was necessary.</p> <p>18 Q. If we can get up on screen, please, <CJS005547>, Zaynab.</p> <p>19 Thank you. This is a use of force form in relation to</p> <p>20 D2497 on that day. If we can go to page 9, please, this</p> <p>21 is your annex A, your report of your involvement in the</p> <p>22 incident. To summarise what you say here, but</p> <p>23 particularly at the bottom, which is where we really get</p> <p>24 into the force that was used by yourself on D2497, you</p> <p>25 say that D2497 tried to push and grab DCO Di-Tella, and</p> <p style="text-align: center;">Page 127</p>
<p>1 A. Not intentionally, no.</p> <p>2 Q. Did you ever get the feeling that it was having that</p> <p>3 effect, even if you weren't doing that intentionally?</p> <p>4 A. If it was, it wasn't me that was trying to do that, put</p> <p>5 that on anybody.</p> <p>6 Q. Just one question, because we have had a few witnesses</p> <p>7 asked about this. Do you remember, were you trained in</p> <p>8 MMPR or was it just control and restraint?</p> <p>9 A. Just control and restraint, yes.</p> <p>10 Q. So the first incident I want to ask you about is a use</p> <p>11 of force against a couple of people who we know as D523</p> <p>12 and D2497. This is in April 2017. This was a day, on</p> <p>13 14 April, where you're recorded as using force on</p> <p>14 a couple of detained people after a protest that day.</p> <p>15 I think it is described, at one point, as a large group</p> <p>16 of detainees who decided they wouldn't come in from the</p> <p>17 courtyard for evening lock-up. You say that you recall</p> <p>18 the protest. Do you remember now?</p> <p>19 A. I remember the protest, yes.</p> <p>20 Q. Do you remember what it was about?</p> <p>21 A. I don't.</p> <p>22 Q. You describe it as "mass disorder". What do you mean by</p> <p>23 that?</p> <p>24 A. There was -- initially, it started out as a peaceful</p> <p>25 protest, if you want. But there was a large pocket of</p> <p style="text-align: center;">Page 126</p>	<p>1 you responded by pushing him back after he tried to do</p> <p>2 that and then pushing him again after he approached you</p> <p>3 in an aggressive manner; is that right?</p> <p>4 A. Correct.</p> <p>5 Q. If we go to page 3 of this document, please, you will</p> <p>6 see there in the middle, Mr Sayers, that there's</p> <p>7 a question of verbal reasoning used to de-escalate the</p> <p>8 situation initially and/or during the incident, and it</p> <p>9 is ticked "yes". But then, if we go back to page 9,</p> <p>10 there's no indication that you did use verbal reasoning</p> <p>11 on this occasion with this detainee, is there?</p> <p>12 A. At the time of that happening, probably not, no, because</p> <p>13 it's a reaction. It's a pre-emptive strike, isn't it?</p> <p>14 It's not -- you don't have time to say to them, "Just</p> <p>15 hold on one second while I give you a warning". The</p> <p>16 de-escalation would have started before that.</p> <p>17 Q. Do you have any idea why that would be ticked on this</p> <p>18 occasion, then?</p> <p>19 A. Because I would have done it before this situation.</p> <p>20 Q. With this detainee? With D2497?</p> <p>21 A. If that's who it was that I pushed, then yeah. I don't</p> <p>22 recognise the detainee's name.</p> <p>23 Q. We have got your report here and we can see from the</p> <p>24 beginning of your statement there's no suggestion</p> <p>25 anywhere that you spoke to D2497 at all?</p> <p style="text-align: center;">Page 128</p>

32 (Pages 125 to 128)

<p>1 A. We were speaking to everybody. There was no -- we 2 weren't just standing there silently -- we were trying 3 to work out what the issues were. Obviously, previous 4 to this, or around the same time, there was a collapsed 5 detainee as well, so we were dealing with that. We had 6 to speak to people then. So de-escalation isn't an 7 initial conversation and then an action; it's a wider 8 range. So I would have been talking to him the whole 9 time.</p> <p>10 Q. Did you always just tick that you'd done the verbal 11 reasoning?</p> <p>12 A. I don't believe so. I believe I did speak to him. 13 That's why it was ticked.</p> <p>14 Q. But you wouldn't have said that in your incident report?</p> <p>15 A. No, obviously, I haven't put it in there, but ...</p> <p>16 Q. Do you think it's possible that you ticked it to make it 17 look better for yourself?</p> <p>18 A. No.</p> <p>19 Q. You then used force on this same individual shortly 20 thereafter, on the same day. If we can go to 21 <CJS005559>, please. You can see at the top it's the 22 same individual, D2497. If we can go to page 9, please, 23 this is your report again, and, to summarise what you 24 say on this occasion, it's that, essentially, you'd been 25 told that he needed to go to CSU after his involvement</p> <p>Page 129</p>	<p>1 that wouldn't have been --</p> <p>2 A. I would assume it would have been used by whoever the 3 manager was at the time. I didn't see who that was.</p> <p>4 Q. The supervising officer there is S Dix, but I think the 5 three of you that were involved were you, Derek Murphy 6 and Ben Shadbolt?</p> <p>7 A. I haven't got an answer for why that isn't marked.</p> <p>8 Q. Do you remember, trying to think back to this situation, 9 were people, including D2497, being moved to CSU to 10 punish them for their involvement in the protest?</p> <p>11 A. The use of CSU, and even E wing, it wasn't a decision 12 that we made. We were instructed to take people there. 13 So whoever made that decision, it wasn't me.</p> <p>14 Q. Would that have been your manager, Steve Dix?</p> <p>15 A. Manager or, if there was any SMT on site at the time, 16 then it would have been one of them. But we never made 17 a decision to take somebody to CSU.</p> <p>18 Q. On the same day, you were involved in the use of force 19 arising from the same incident against someone we call 20 D523, and your report about this is set out at 21 <CJS005614>. You can see D523 in the top. Then if we 22 can go to page 15, where I think your report is, please. 23 We can see this is your report in the same form we have 24 seen before, and, again, just to summarise, you say that 25 you were asked to be part of a team involving -- along</p> <p>Page 131</p>
<p>1 in the protest, and you had to use force because he 2 wasn't going to walk compliantly to CSU. You say that 3 in the second-from-bottom paragraph there. Do you see 4 that?</p> <p>5 A. Yes.</p> <p>6 Q. Now, if we go back to page 2 on this document, please -- 7 sorry, page 3 I think is the one I want. On this 8 occasion, the box isn't ticked for verbal reasoning 9 used. Is that because you didn't use any verbal 10 reasoning in this case?</p> <p>11 A. I couldn't give you an answer on that. I don't know why 12 that's not ticked or ...</p> <p>13 Q. Because you --</p> <p>14 A. I'm assuming that, as neither are ticked, that it was 15 just a miss. I just didn't do it. Not for any reason, 16 it just wasn't done. I missed it on the paperwork. 17 There's no reason why I'd tick one on the same day and 18 then not tick another.</p> <p>19 Q. Presumably, you would accept that, if you are moving 20 someone to CSU, that that's exactly the type of 21 situation where you only have to use force if you have 22 already spoken to them and tried to get them to go?</p> <p>23 A. Yes.</p> <p>24 Q. So if verbal reasoning wasn't used, and I appreciate 25 it's not ticked and we don't know what happened, then</p> <p>Page 130</p>	<p>1 with DCO Shadbolt and DCO Murphy to collect D523 from 2 his room on D wing. Force was necessary because D523 3 had to be relocated to E wing on rule 40 for his 4 behaviour and he refused and wouldn't walk compliantly. 5 Do you see that?</p> <p>6 A. Yeah, I can see it, yeah.</p> <p>7 Q. It's noted here by you that he was inciting detainees to 8 continue the protest that had been started. That's the 9 final line in the paragraph that starts "On 14/4/2017". 10 Do you remember on this occasion -- you have obviously 11 noted that he was inciting detainees to continue the 12 protest. Was moving him to rule 40, to the CSU, 13 a punishment for that, for inciting other detainees?</p> <p>14 A. I don't remember this situation. I don't remember 15 having to go to anyone's room that night to do that. 16 Because it was -- if I remember rightly, it was the end 17 of our shift because they were refusing to bang up.</p> <p>18 Q. Presumably, you did, because --</p> <p>19 A. Well, obviously I did.</p> <p>20 Q. You just don't remember it?</p> <p>21 A. But I don't remember the situation.</p> <p>22 Q. Do you remember D523? You've got the name there.</p> <p>23 A. No.</p> <p>24 Q. Do you have any recollection of whether you would have 25 been aware of his mental health problems at the time of</p> <p>Page 132</p>

33 (Pages 129 to 132)