



Home Office

Detention and Escorting
Services
Immigration Enforcement
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DETSECOM@homeoffice.gsi.gov.uk

D1538

CC:

Your representatives, Duncan Lewis
Spencer House
29 Grove Hill Road
HA1 3BN
CX 4216 Harrow

18 April 2018

Dear **D1538**

Reference Number:

Your Reference: SULAIHAA/E041070002/ **D1538**

Our Reference: IMG/17/1555/1557/20

I am writing in response to your representatives', Duncan Lewis, letter with reference to a formal complaint about your treatment whilst in detention at Brook House dated 21 August 2017 and their further letter before action of the 18 October 2017, that I attach for your reference. In their correspondence they have reported a series of allegations on your behalf. I am writing to advise that I have now completed my investigation and would like to offer the following response.

In accordance with Detention Services Order 03/2015 'Handling of complaints', a complaint is defined as "any expression of dissatisfaction about the service we provide, or about the professional conduct of our staff and contractors". In accordance with the guidance, the Home Office Professional Standards Unit will investigate allegations of serious misconduct by means such as interviewing involved parties and witnesses and securing evidence (e.g. CCTV) where possible.

The Detention and Escorting Services Complaints team have treated as a complaint the allegations that you were pushed, slapped and removed to Rule 40 on 3 June 2017 when you were denied use of the computer room and that on 28 June 2017 a DCO made homophobic comments towards you. These were sent to the Home Office Professional Standards Unit for investigation:

I would like to thank you for meeting the Professional Standards Unit officer on 15 December 2017 at Cardiff Reporting Centre and providing your full recollection of your time in Brook House IRC and your concerns about your treatment there. The response to the allegations raised by your representatives are below as documented by J N Adamson, the investigating officer.

I recognise that you feel that you had cause to complain about your experiences in Brook House IRC. All Home Office employees are fully aware of the emotional effects their job can have on members of the public.



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I can assure you that officers are trained to conduct themselves in a professional and courteous manner at all times making every effort to ease the situation for everyone concerned.

All Home Office employees are fully aware of the emotional effects their job can have on members of the public. I can assure you that officers are trained to conduct themselves in a professional and courteous manner at all times making every effort to ease the situation for everyone concerned. Any expression of dissatisfaction is taken seriously, irrelevant of the outcome, and we will endeavour to learn to continuously improve our service and care.

I hope you feel satisfied with the way in which your complaint has been handled, however, should you wish to discuss any aspect of it, please feel free to contact us.

If you remain dissatisfied you may also appeal to the Prisons and Probation Ombudsman who is independent of Immigration Enforcement and G4S. You must do this within three months of receiving this letter. I have enclosed a leaflet which explains the process "How to complain to the Ombudsman". This leaflet can also be found at http://www.ppo.gov.uk/wp-content/uploads/2014/06/PPO_Complaint_leaflet_Dec_2013.pdf

The PPO cannot deal with any complaints relating to your immigration status, including any decision to remove you from the United Kingdom, nor does the PPO deal with complaints about healthcare. You can only appeal to the PPO if you are the person with the complaint. Complaints from third parties cannot be accepted.

To help us continually improve our Complaints Handling Process, we have also enclosed a Complaints Handling Feedback Form with this letter which we ask that you complete and return to the Home Office by post or email.

I would like to take this opportunity to thank you for bringing your concerns to our attention.

Yours sincerely,

Detention and Escorting Services Complaints team
DETSECOM@homeoffice.gsi.gov.uk

ALLEGATION AND INVESTIGATION:

You allege DCOs in the IT suite launched an unprovoked attack and during that attack used excessive force amounting to assault. You further allege, on a separate occasion, you were the subject of Sensitive/irrelevant abuse.

Consideration of the first allegation focused the investigation on whether any DCO used force on you, if used whether any use of force was unprovoked or justified and, again if used, the level of any force.

In consideration of whether any DCO used force on you, this aspect is not disputed and evidence, including your own, supports that DCO F used force on you.

In consideration of whether the force used was unprovoked or justified, evidence supports that you moved close to DCO F on several occasions. CCTV evidence supports you moved in an apparently aggressive manner toward DCO F. Evidence, including CCTV recording, supports you moved very close to DCO F and, on the final occasion, appear to grab DCO F around the back of the neck. Officer's evidence supports that DCO F felt a threat of imminent assault to both himself and DCO IB. No evidence was found to support your version of events that a DCO called other DCOs who pushed and tried to slap you. It is considered, therefore, that the use of force was not unprovoked. It is further considered that DCO F's use of force to move you away from him was justified under the circumstances presented at the time. Officers' evidence supports you were verbally abusing DCO IB both before and following DCO F's entry into the IT room.

In consideration of the level of force used, evidence supports that DCO F used open palmed hands to push you away from him on several occasions. On each of those occasions you had moved very close to DCO F and, on the final occasion, appear to have grabbed the DCO around the back of the neck. Evidence supports that you moved toward DCO F in an apparently aggressive manner and it is considered reasonable to assume DCO F was justified in feeling under threat of imminent assault, especially considering you approached in the same manner several times. Officers' evidence also supports verbal de-escalation was attempted to calm you. It is considered, therefore, that the level of force used to respond to the situation presented at the time was within reasonable and necessary levels proportionate to achieving the required outcome of moving you out of DCO F's personal space.

In wider consideration of events, you allege you requested use of a computer but were ignored by the DCO in the IT suite at the time. You confirmed you were not given use of a computer and did not sit at a computer nor sit at all. You allege the DCOs approached you and started pushing you without giving any reason. CCTV evidence shows you sat down in a computer type chair on several occasions. CCTV evidence shows you apparently working at a computer on several occasions. CCTV evidence shows you gesturing, and apparently shouting, toward the DCO desk before DCO F enters the room. CCTV evidence shows you being apparently pacified and gently restrained by other detainees in the IT room. It is considered, therefore, that sufficient evidence was found to support the version of events as reported by the DCO's on their use of force and incident reports. It is further considered that sufficient evidence was found to cast doubt on the veracity of your version of events. It is accepted that you were, or became, agitated whilst in the IT suite however no evidence was found as to the cause of that agitation. Evidence does, however, support that the alleged non allocation of a computer was not the cause. Evidence supports that you were primarily directing your aggression toward DCO IB and that DCO F placed himself in a position to protect his colleague. That positioning resulted in the invasion of DCO F's personal space by you and the resultant proportionate use of force.

It is accepted that, as a consequence of your actions and behaviour, you were placed into Rule 40 and suspended from use of IT services for a period of seven days. With regard to the suspension of IT services, evidence supports you were notified of the reasons for the suspension and that you retained a right to appeal the decision and of the process to do so. No evidence was found to suggest you lodged such an appeal. Evidence further supports the suspension was not absolute and that you could, conditionally, access IT services relevant to your Immigration case. It is, therefore considered the suspension was reasonable in response to your attitude and behaviour in the IT suite and was not a punitive blanket ban as the allegation

implies. With regard to you being placed into Rule 40, this aspect of the allegation is considered in greater depth later in this report.

Sensitive/Irrelevant

No definitive evidence was found to support [Sensitive/Irrelevant] comments were or were not made to you. Consideration was therefore given, on the balance of probability, to the likelihood of such comments being made by a DCO to a detainee and to the circumstances under which they are alleged to have been made.

It is accepted that you were attempting to enter onto C wing, it is further accepted that C wing was not your accommodation wing. It is also accepted that you were given a warning as a consequence of events.

Evidence supports you knew you should not enter accommodation wings other than your own.

You stated you were attempting to enter C wing in order to obtain additional clothing from another detainee. You further stated this was necessary as you had no clothing beyond "boxer" type shorts and t-shirts despite being in Brook House in excess of 20 days and having requested issue clothing. You also stated no clothing had been issued to you.

Evidence supports you were issued "destitute clothing" on 1 June 2016 during your admission to Brook House. Evidence further supports this would include jogging bottoms and a jumper. CCTV recording shows you wearing calve length leg wear on 3 June 2017. Evidence supports you had, in your room on 3 June 2017, items of clothing other than t-shirts and "boxer" type shorts. It is, therefore, accepted that you did have clothing other than that which you state, "boxer" type shorts and t-shirt, as being your sole possessions. This casts doubt on the veracity of your statement and, therefore, your stated reason for wishing to gain entry to C wing.

Evidence from the G4S internal investigation states the DCO concerned, by then a DCM, disputes the allegations and states he did not make any reference to your clothing. Evidence also states you were verbally abusive to the officer when challenged as to why you were on C wing.

You state you were pushed out of C wing and your head was put down. Under Detention Centre Rules such actions would have constituted use of force and, as such, would have been recorded in line with Rule 41(3). No evidence of any such record was found.

It is accepted that you attempted to gain entry to a wing other than your own despite knowing such entry was not allowed. Your stated reason for wanting to enter C wing is thrown into doubt as evidence supports you had been issued clothing other than shorts and t-shirts. It is considered reasonable to assume that, being frustrated in your attempt to enter C wing, you became agitated and verbally abused the officer preventing your entry.

Whilst it is accepted that the question of [Sensitive/Irrelevant] comments being made to you cannot be resolved beyond any doubt, it is considered on the balance of probability that such comments were probably not made and that you became frustrated due to your attempt to enter C wing being challenged and denied.

Sensitive/Irrelevant

Sensitive/Irrelevant

In consideration of all available evidence it is considered that your first allegation is found to be unsubstantiated.

In consideration of all available evidence it is considered, on the balance of probability that your second allegation is found to be unsubstantiated.

Rule 40 and wider Organisational considerations:

Whilst it is accepted that you were placed into Rule 40 following the incident on 3 June 2017 in the IT suite of Brook House, consideration was given to the appropriateness of the use of that rule.

As considered earlier in this report, evidence supports that you conducted yourself in such a manner as to necessitate the use of force by a DCO to defend himself, and a colleague, against a perceived threat of assault.

Evidence supports that other detainees became directly involved in the incident and that it affected their behaviour and disrupted their activity.

Rule 40(1) allows for the Removal from Association (RFA) of a detainee where it appears necessary in the interests of security or safety.

Rule 40(2) allows, in cases of urgency, for a contracted-out detention centre manager to authorise use of Rule 40 but, when so doing, requires the Secretary of State to be informed as soon as possible.

Appropriateness of the use of Rule 40, therefore, hinges on the apparent necessity for the RFA of a detainee based on the interests of security or safety.

As above, it is accepted that your conduct and actions were perceived by the DCOs involved as a threat to their safety and wellbeing.

Where Rule 40 is invoked it is often, of necessity, a subjective decision based on circumstances pertaining at the time and how events are perceived by those affected.

Consideration was therefore necessarily given to the decision to place you into Rule 40 and the timings of that decision.

Sensitive/Irrelevant records authority to place you into Rule 40 was given by DCM L at 14:00 on 3 June 2017, the DCF-1 also records you were located into Rule 40 at 14:30.

You stated the DCOs told the DCM that you had caused trouble and, following viewing the CCTV recording, the DCM placed you into Rule 40 approximately three hours later. It is reasonable to assume, therefore that DCM L started his decision making process at approximately 10:25 and that the final decision was not solely based on the DCOs verbal accounts.

DCO F's use of force report is timed at 14:00 and DCO IB's incident report is timed at 12:30, therefore DCM L had access to the full, written reports of both DCOs immediately before he finalised his decision.

Sensitive/Irrelevant records the Duty Director, JW, was notified at 12:00, the DCF-1 also records that the Duty Director was consulted with regard to the reason for your RFA. It is reasonable to assume that the consultation took place at 12:00 when the Duty Director was notified.

Sensitive/Irrelevant records that the Home Office and Independent Monitoring Board (IMB) were notified at 14:00 and Religious Affairs at 14:20. Healthcare is recorded as being notified but no time is recorded.

Removal from Association Initial Health Assessment is timed at 14:45 and records no clinical reasons to advise against RFA. It is reasonable to assume, therefore, that Healthcare were notified of the RFA at the same time as the Home Office, IMB and Religious affairs, 14:00 to 14:20, as at 8.14.

Sensitive/Irrelevant records the reason for removing you from association as due to your “invading an officers personal space, the officer had to push **D1538** away from him before detainee came towards officer again and tried to grab him around the neck. Duty Director consulted and at this present time the use of rule 40 is required to maintain the safety and security of the centre”. It is accepted that this conforms to the requirements under Rule 40(1) in that it appeared necessary in the interests of security or safety.

Sensitive/Irrelevant records copies of documentation were sent to all necessary parties at 14:50 including to the Detainee by hand.

Record of Actions and Observations relating to you Page 1 line 3 records 3/6/17, 15:20 “Given Rule 40 paperwork”. Discrepancies in timings are accepted as acceptable due to physical movement through the Centre. It is accepted that this conforms to the requirements under Rule 40(6).

Sensitive/Irrelevant records you were removed from Rule 40 at 10:00 on 4/6/17 and all relevant parties were notified between 09:30 and 10:30. Record of Actions and Observations Page 2 line 1 records 04/-6/17, 09:25 “Seen & spoken to by the H.O.”. It is accepted that this conforms to the requirements under Rule 40(3) and (9). It is noted that although Rule 40(9) states “at least once each day for so long as they remain so removed” a “day” is not defined, it is accepted that a “day” may reasonably be taken as a 24 hour period.

In consideration of the application of Rule 40, it is considered that sufficient evidence was found to support that policy and procedure were followed to an acceptable standard and the requirements of Rule 40 were followed in your Removal from Association.

In consideration of the appropriateness of the use of Rule 40, it is accepted that DCM L took sufficient steps to secure as much evidence as was available to him at the time in order to authorise your RFA, including consultation with the Duty Director. With regard to the time taken to place you into Rule 40, it is accepted that there may be an argument to suggest you had, by that time, ceased to be a concern to the security and safety of the centre. It is, however, accepted that the reason given for the removal was due, in part, to the attempt to physically grab an officer. It is also accepted that, although not specifically mentioned on DCF-1 **Sensitive/Irrelevant** your actions in the IT suite did appear to involve and disrupt other detainees. It is accepted that your actions were contrary to Rule 39(2). It is therefore considered reasonable to accept the appropriateness of the use of Rule 40 as circumstances and evidence presented themselves to DCM L at the time.

With regard to wider Organisational considerations, with specific reference to Terms of Reference at 2.2, it is noted that the general conditions, training and service levels pertaining within Brook House at the time are subject to a separate review.

Consideration was, however, also given to any underlying organisational deficiencies which may have contributed to your treatment in this specific case. Your two allegations were again considered separately.

In regard of the first allegation, it is considered that no evidence was found, beyond your allegation, that DCO supervision of the IT suite was deficient or that DCOs were negligent in their duties. On the contrary, evidence was found to support that an identified problem, with data speed, was being addressed. It is considered that sufficient evidence was found to support that the use of force employed was in line with policy and officers training and no training deficiencies or requirements were indicated.

In regard of the second allegation, it is considered that no evidence was found, beyond your allegation that the DCO acted in any way other than in accordance with policy and procedure. Whilst no definitive evidence was found to prove either stance, it is considered reasonable to assume that the officer acted in accordance with training and procedure for the reasons discussed earlier in this report.

In regard of both allegations, it was noted during the investigation that there was an accessible, suitable and published complaints procedure available to Detainees within Brook House at the time of the incidents.

That you did not use this procedure and chose to make your allegations known on 21 August 2017 after you had moved to Harmondsworth IRC is not considered to be as a consequence of a failed complaints procedure. It is accepted that, following the eventual submission of your allegations, the process of handling the complaint broke down and did not follow the correct pathway to investigation. It is further noted, however, that once identified as being mis-handled the complaint was forwarded through the proper channels. It is, therefore, considered that no organisational deficiencies were identified which would have contributed to your treatment during either of the incidents.