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WITNESS STATEMENT OF **D1538**

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I, **D1538** currently residing at **DPA**, born on **DPA** **DPA** make this statement. I declare that the contents are true to the best of my knowledge and belief. I wish to state as follows:

**Introduction**

1. I have prepared this statement with the help of my representatives at Duncan Lewis Solicitors (DL) over a number of video and telephone sessions, with the assistance of an interpreter. I struggle to recall dates with any clarity, and so this statement has been prepared based on existing documents regarding my detention as well as my recollection of events. Dr Thomas, a consultant clinical psychologist, assessed me on 28 October 2017 after my release from detention and found that my psychiatric disorders render me with an impaired memory, concentration, and orientation to time and place. She also advised that questions about my traumatic past experiences should be limited to essential items only to reduce the risk of re-traumatisation (see **Annex 2**, Dr Thomas Report).
2. I was born in **DPA** which is a town in Morocco, to a conservative **Sensitive/irrelevant** family. The Home Office dispute my age and have previously made me undertake an age assessment.
3. I left Morocco due to violent and **Sensitive/irrelevant** physical and verbal mistreatment at the hands of my family and strangers. I suffered regular physical abuse from my father as a child, including being subject to a severe beating by him after I dropped out of school. I was also the victim of repeated drugging **Sensitive/irrelevant** over a period of three months. After my family discovered that I had been sexually abused in this way, my father attacked me severely, hitting me over the head with a hammer and beating me on the back with a cable, and told me he would kill me if I returned home, leaving me homeless. Whilst living on the streets as a child, I was attacked by members of the public, including being stabbed and being hit over the head with a brick. I have scars as a result of this mistreatment, as recorded in my Rule 35(3) Report which records

*Obviously I'm holding his arm now so I've actually got his arm now, that's where I put my knee. His arm aint [sic] going nowhere, but he's got my keys. So I was just using my other fucking hand on his thumb.*

*Ed Fiddy: How 'd you do that?*

*Joe Marshall: No so, I done that and nothing so I'm thinking what the fuck. So I really done it [Joe Marshall mimes applying pressure to the thumb joint to push the digit into the palm, then opens his hand to indicate the detainee releasing the keys once the pain was too much], then he went – go on you cunt.*

*Ed Fiddy: I – I would just yank it mate [Ed Fiddy mimes applying pressure in the opposite direction; pulling the thumb away from the fingers]. I don't fucking do this shit.” (KENCOV1023, V2017052400004 Clip 1)*

(iii) In the G4S draft report following an investigation into Nathan Ward's allegations, it notes that a member of staff, Michelle Brown had raised “concerns” about Luke Instone-Brewer. Another member of staff, Stacie Dean also raised concerns about him for “antagonising and goading detainees”, and also in relation to “his C&R”. The same document notes a detainee made a complaint against him for “poor behaviour” and this was substantiated. The report further records that he was “looked at from a Corruption Prevention point of view”, and that Stacie Dean alleged he was “supplying spice to detainees” (CJS0073663).

(iv) “Ginge: no one likes a snitch.

*Joe Marshall: You're fucking right there no one likes a snitch. You're fucking right Ginge.*

*Ginge: We get it from upstairs, we get it from them. We don't need to get it from each other.*

*Callum Tulley: Yeah” (KENCOV1012, V201705040003 Clip 1)*

101. I understand that “Ginge” has been identified by the Inquiry as DCO Instone-Brewer. I understand that DCO Instone Brewer left Brook House on 28 July 2017, and DCO Ed Fiddy left on 12 October 2017.<sup>75</sup>

#### *Incident on 28 June 2017*

102. As referred to above, on 28 June 2017, I was walking over to C-Wing to borrow some clothes from another detainee, as I only had a t-shirt and shorts. A detention officer told me that I was not allowed to go to C-Wing and that I should change my clothes because I ‘looked gay’. This was in front of other detainees including Moroccans and other Arabic people and I was terrified about what they would think and how they would react to me. I reacted angrily to what he said because I could not believe that a detention officer would speak to me like that.<sup>76</sup>

<sup>75</sup> See CJS000599.

<sup>76</sup> DL0000067.



103. I do not remember the man's name but my legal representatives inform me that the PSU report confirms the man was called Darren Tomsett. According to the PSU report about my complaint, Mr. Tomsett was a DCO at the time of the incident but was subsequently promoted to DCM. Document HOM002190, a G4S complaints log, identifies him – *“he says an officer denied him access onto the wing & said he should change his clothes because he “Looked gay” ...28/06 – Darren Tomsett [sic]”*.<sup>77</sup>

104. Mr. Tomsett made this comment in front of lots of other detainees, and they heard it. A lot of the detainees who heard Mr. Tomsett say this were Arabic-speaking, and they laughed at me. They teased me about this. They mocked me for days after the comment.

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# Sensitive/Irrelevant

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# Sensitive/Irrelevant

107. The PSU found that my complaint was, on the balance of probabilities, unsubstantiated:

*“Consideration of the second allegation focused the investigation on whether a DCO made homophobic comments to Mr D1538.*

*7.3.9 No definitive evidence was found to support homophobic comments were or were not made to Mr D1538. 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.*

*7.3.10 It is accepted that Mr D1538 was attempting to enter onto C wing, it is further*

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<sup>77</sup> Row 12, column E.

<sup>78</sup> CJS007239\_0001-0002.

*accepted that wing was not Mr D1538's accommodation wing. It is also accepted that Mr D1538 was given a warning as a consequence of events.*

*7.3.11 Evidence supports Mr D1538 knew he should not enter accommodation wings other than his own.*

*7.3.12 Mr D1538 stated he was attempting to enter C wing in order to obtain additional clothing from another detainee. Mr D1538 further stated this was necessary as he 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. D1538 also stated no clothing had been issued to him.*

*7.3.13 Evidence supports D1538 was issued "destitute clothing" on 1 June 2016 during his admission to Brook House. Evidence further supports this would include jogging bottoms and a jumper. CCTV recording shows Mr D1538 wearing calve length leg wear on 3 June 2017. Evidence supports Mr D1538 had, in his room on 3 June 2017, items of clothing other than t-shirts and "boxer" type shorts. It is, therefore, accepted that D1538 did have clothing other than that which he states, "boxer" type shorts and t-shirt, as being his sole possessions. This casts doubt on the veracity of Mr D1538's statement and, therefore, his stated reason for wishing to gain entry to C wing.*

*7.3.14 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 D1538 in relation to his clothing. Evidence also states Mr D1538 was verbally abusive to the officer when challenged as to why he was on C wing.*

*7.3.15 Mr D1538 states he was pushed out of C wing and his 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.*

*7.3.16 It is accepted that Mr D1538 attempted to gain entry to a wing other than his own despite knowing such entry was not allowed. His stated reason for wanting to enter C wing is thrown into doubt as evidence supports Mr D1538 had been issued clothing other than shorts and t-shirts. It is considered reasonable to assume that, being frustrated in his attempt to enter C wing, Mr D1538 became agitated and verbally abused the officer preventing his entry.*

*7.3.17 Whilst it is accepted that the question of homophobic comments being made to Mr D1538 cannot be resolved beyond any doubt, it is considered on the balance of probability that such comments were probably not made and that Mr D1538 became frustrated due to his attempt to enter C wing being challenged and denied."*<sup>79</sup>

108. I feel like the PSU started from the assumption that an officer, especially one subsequently promoted to DCM, would not have made such comments to a detainee. They took his evidence at face value, whereas I was expected to provide definitive evidence of events, which would be very difficult without a recording of the incident. Even the PSU did say there was no evidence to support Mr. Tomsett's version of events.

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<sup>79</sup> CJS003348.



109. My legal representatives have recently read through disclosure documents with me that show that Mr. Tomsett was involved in a wide number of instances of racism and poor behaviour to detainees. For example, HOM002190 records 17 complaints against Mr. Tomsett, including that he was “*abusive and threatening*”, told a detainee to “*go back to his country*”, is “*rude and irresponsible*”, stole money sent to a detainee, and was confrontational and rude to a detainee when the fax machine was not working.

110. Other examples include (own emphasis added):

- (i) From a document called “written statements from camera”, which appears to be notes made by BBC staff on Callum Tulley’s secret filming, in CPS000025 - “*This morning around 8.30am there was an altercation between a Congolese detainee and officer Darren Tomsett in the B wing office. The detainee was demanding new boxers and socks and was being quite abusive and was swearing. Officers were taking a firm course of action and were remaining professional until Darren seemingly lost his temper and started shouting back at the detainee saying 'Im [sic] not scared of you' and 'the day I'm scared of you is the day I pack it all in' and 'if you want to have a go lets go'. Cal believes that while the detainee was being very abusive there was no threat of actual violence, the threats were empty. Darren walked away from the incident in the end. This Congolese detainee is known to be challenging.*”
- (ii) This BBC clip from 19 June 2017: “*Darren Thomsett [sic]: Horrible bastard. Callum Tulley: Eh? Dan Small: Come back and kill all the British. Callum Tulley: What’s that? Dan Small: Bit of training in Somalia and come back and kill all the British. Callum Tulley: Is that what he said? Darren Thomsett: Yeah. He has been in here and giving it all the large one, mate. Put his chin out, he put his chin out hoping we’d knock him out. Callum Tulley: Eh? Darren Thomsett: He put his chin out. He wanted me to fucking dig him. Callum Tulley: Did he? Darren Thomsett: Yeah. I went, ‘No, mate. I said, ‘You’ – I said, ‘Throw the first one. I said, ‘You throw the first one, and I’ll fucking put you out of your misery. If you throw the first one, I’ll fucking put you out of this office. So, it’s up to you mate.’ Stinking attitude.” (TRN0000083, KENCOV1037, V2017061900003 Clip 1)*
- (iii) A BBC clip from 5 June 2017: “*Dan Lake: He’s going ‘you fucking want some?’ Callum Tulley: What was he saying? Dan Lake: Geezer come in from C Wing, he is pulling a curtain [Inaudible] and Darren just had a go at him like you wouldn’t believe. Dan Small: You could either tell him ‘okay I will get you a curtain from the spare room that we have’ or ‘no we don’t have any, I’m afraid’. But Darren – he’s losing the plot man. Callum Tulley: Who is this D732? Dan Small: Jamaican. Skinny, small one.*

Callum Tulley: What did he say? What did he say to you?

Dan Small: I can't remember what it was.

Dan Lake: He went nuts. He went 'you ain't fucking having one, they are for this week' -

Dan Small: D732 even came up to me and asked 'is he on something? Because all I asked for was a curtain.'

Dan Lake: It was so extreme.

Callum Tulley: Was it? I was in there, I was in the office this morning, and this detainee was basically kicking up the [inaudible] because he wasn't being given boxers, and then he wanted socks and we weren't giving him socks either. And then him and Darren squared up to each other. And Darren was like, 'Oh yeah you think I'm scared of you? You think I'm scared of you, do you?' [Laughter]. I'm thinking Darren, mate, what are you doing?

Dan Small: We were doing a [inaudible] list, and Darren was looking at one fella and the fella was looking at Darren and he said, 'Do you want to kiss me or something?' Out of nowhere, 'Do you want to fucking kiss me?' Literally. I said, 'What the fuck is going on?'

Dan Lake: [Inaudible] He is the sort of guy, I might have said to you, he will go home and when the TV remote runs out of battery he will argue with that and all [laughter]. He's a fucking nutter, bro, he's completely lost the plot. Sensitive/Irrelevant

Sensitive/Irrelevant

Callum Tulley: He was going to the detainee, he goes 'the day I'm scared of you, mate, is the day I got to pack it in, I tell you'. [Laughter]

Dan Lake: Sensitive/Irrelevant

Sensitive/Irrelevant

Dan Small: Do you reckon he is in his mirror, every day, just fucking talking to himself.

Dan Lake: Yes, he's fucked.

Callum Tulley: But sometimes, he's like in an amazing mood, and it's just like, you can't -

Dan Lake: He is a raving nutter, is what he is.

Dan Small: Bipolar boy.

Dan Lake: Yeah but you can't [inaudible]. I had one on A wing that time and it was decent, I had a good time on A wing. I was going to move there.

Callum Tulley: If you were moved to B wing, you'll be working with Darren every day.

Dan Small: I know. You'll get stabbed at some point.

Callum Tulley: I don't know how he's not got in a scrap before, personally, but I suppose you wouldn't really want to pick a fight with him, would you?

Dan Small: What he does is he will argue with them and then bin them off.

Dan Lake: Yeah, definitely, he winds them up and then sends them out."

(TRN0000080, KENCOV1030, V201706050019)

- (iv) From Callum Tulley's video diaries: "MALE INTERVIEWER 1: Tell me a little bit about Darren?"

CALLUM TULLEY: Darren is extremely efficient in many ways when it comes to his job. He works extremely hard on the wing. He does inductions brilliantly. He does work, he works really, really hard. But he also puts himself under quite a lot of stress. He's got hundreds of people coming in every week onto B-wing, because it is the induction wing of the centre, and as a result his workload's very heavy,



*and he just tries to get everything done to the best that he can. But it's not -- he -- he allows -- when the stress of the job gets to him, he takes it out on the detainees, and when detainees are being particularly challenging, he will jump at the opportunity to get involved in a conflict, probably as a way of venting off his anger and his stress that he feels in what are quite impossible conditions to work in at times. But I think he channels it in the wrong way, and it spills over into unprofessionalism at times.*" (TRN0000063, BBC000621)

111. I think these comments demonstrate that his word, as a staff member and DCO promoted to DCM, should not have been viewed as more trustworthy than mine. Instead, they indicate that Mr. Tomsett had a history of rude, violent, and inappropriate behaviour – which officers appeared to believe too, within which the homophobic comment he made to me is consistent. The incidents described above are very similar to mine and how he acted towards me and appear to show a pattern of how he behaved towards detainees.

PSU

112. I have explained to my legal representatives that I do not recall the details of the process of making a complaint to the PSU, or the interview. The account below therefore is provided based on a review from the documentary evidence with my legal representatives. I do remember the events about which I complained.
113. On 21 August 2017, I submitted a complaint about these two incidents to Brook House, via my solicitors.<sup>80</sup> The response to the complaint was very slow. I understand from my legal representatives that G4S did not, as they should have done, forward the complaint on to the Home Office in August.<sup>81</sup> G4S said they would respond to the complaint by 20 September 2017,<sup>82</sup> but they did not meet this deadline, with my solicitors chasing a response on 22 September 2017<sup>83</sup> and 13 October 2017.<sup>84</sup> G4S wrote to my solicitors on 29 September 2017<sup>85</sup> and 13 October 2017,<sup>86</sup> stating they were handing over the complaint to the Home Office.
114. I understand from my legal representatives that G4S initially investigated my complaints and found they were unsubstantiated. I did not receive the letter setting this out, nor did my legal representatives,<sup>87</sup> as officials realised G4S should not have conducted the investigation.<sup>88</sup>

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<sup>80</sup> DL0000067.

<sup>81</sup> CJS001360\_0007.

<sup>82</sup> CJS001360\_0060.

<sup>83</sup> CJS001360\_0058.

<sup>84</sup> CJS001360\_0041.

<sup>85</sup> CJS001360\_0033.

<sup>86</sup> CJS001360\_0032.

<sup>87</sup> See CJS007237 for a draft of this letter, and CJS007238 for correspondence regarding re-drafting it.

<sup>88</sup> This letter was never sent. Karen Goulder did not get approval from the draft as after Panorama, G4S queried whether they should be conducting the internal investigation – see CJS003348\_0006 and CJS001360\_18.