



Prisons and Probation Ombudsman
PO Box 70769
London
SE1 4XY
Recorded delivery

And by email to: **DPA**

Dear Sir / Madam

D687

Appeal against decision of Home Office Professional Standards Unit
Home Office reference: 17/1555/1557/26

We are advising **D687** and his authorisation is **enclosed**. Please treat this letter as an appeal against the decision by the Professional Standards Unit (PSU) notified by letter dated 18 April 2018 from the Detention and Escorting Services.

Please note that we also act for our client in a Judicial Review ('JR') of the refusal of the Secretary of State for the Home Department (SSHd) to announce an independent inquiry into the alleged abuses of detainees at Brook House Immigration Removal Centre ('Brook House') as revealed by the BBC Panorama programme, "Undercover: Britain's Immigration Secrets" which was aired on 4 September 2017.

Please find **enclosed** copies of the following documents:

1. Our client's complaint form, 21 April 2016;
2. Letter G4S Security Manager to Our client, 26 April 2016;
3. G4S DAT forms, 17 February to 8 May 2017;
4. G4S self-harm incident investigation, 13 May 2017;
5. Redacted Letter of Claim, 12 September 2017;
6. Redacted Letter of Claim re: our client, 17 October 2017;
7. Letter PSU to Deighton Pierce Glynn Solicitors ('DPG'), 5 December 2017;
8. Email DPG to PSU, 5 December 2017;
9. Detainee custody officer statement, 7 December 2017;
10. Detainee custody officer statement (2), 7 December 2017;
11. Detainee custody officer statement, 11 December 2017;
12. Letter DPG to PSU, 20 December 2017;

Deighton Pierce Glynn and Deighton Pierce Glynn Solicitors are trading standards for Deighton Pierce Glynn Limited. Company No. 07382358
Authorised and regulated by the Solicitors Regulation Authority. SRA No. 552088

Deighton Pierce Glynn
382 City Road
London EC1V 2QA
DX 146640 Islington 4

t: **DPA**
f:
e:
w: dpglaw.co.uk

13. Draft witness statement of our client provided to the PSU investigator prior to the interview on 8 January 2018;
14. Transcript of the Professional Standards Unit interview, conducted by Helen Wilkinson on 8 January 2018;
15. Email exchange between PSU and G4S re body worn cameras, 9 January 2018;
16. Detainee movement notification, undated;
17. Witness statement of our client, 23 January 2018, served in the Judicial Review and provided to the PSU investigator;
18. Email chain between DPG and PSU investigator, 24 January to 21 February 2018;
19. ACDT records;
20. ACDT observations;
21. IRC The Verne detention medical records;
22. Detention and Escorting Services Professional Standards Unit letter, 18 April 2018 with summary of PSU report;
23. Home Office Professional Standards Unit full report, undated;
24. Grounds of Claim in our client's JR;
25. PNC record of our client as at 1 May 2018;
26. Email exchange between DPG and Government Legal Department re our client's PNC record of 1 May 2018, 16 May 2018; and
27. Order of the High Court of 22 May 2018 granting permission to our client (known in the proceedings as [D687] and [P1527] (a client of Duncan Lewis) to proceed with claims for JR.

You are also requested to watch in full the Panorama programme which is available to download on i-player at:

<https://www.bbc.co.uk/iplayer/episode/b094mhsn/panorama-undercover-britains-immigration-secrets>. Our client is the detainee referred to as [DX] at 34.25 and 38.00 of the documentary.

Background

1. Our client was detained at Brook House between 28 October 2015 and 13 May 2017. His complaint arises out of his treatment at Brook House. Details of his complaint are recorded in detail in his witness statement dated 23 January 2018 filed in the JR and provided to the PSU investigator.
2. Our client's complaint was referred to the PSU after we sent a letter before JR claim on behalf of a number of our clients challenging the failure of the SSHD to announce an Article 3 compliant inquiry into the alleged abuses at Brook House. We were then instructed by our client and wrote to the Government Legal Department on 17 October 2017 adding him as a proposed Claimant to the JR.
3. As a result of our letters before claim, the Detention and Escorting Services (DES) Complaints Team of the Home Office referred our client's complaint to the

PSU for investigation. Our client was invited to an interview with the PSU investigator which he attended on 8 January 2018. Shortly before that interview we provided a draft unsigned statement of our client setting out our understanding of the events. This had not been checked by our client. It was provided to the investigator to assist the interview process.

4. At the time of the interview we had not seen the CCTV footage relating to the allegation of use of excessive force, though we had for weeks been pressing for its disclosure.
5. After the interview, the PSU provided access for us to view with our client the CCTV footage and having viewed the footage, and taken further instructions from our client, we finalised our client's witness statement which he signed on 23 January 2018. The signed witness statement was sent to the PSU investigating officer and to the court in support of the claim for JR.
6. On 26 January 2018 we issued the JR claim.
7. On 18 April 2018 the DES Complaints Team sent us a letter addressed to our client, with what appears to be a summary of the full report of the PSU. On 20 April 2018, in the course of JR proceedings, the SSHD disclosed a copy of the full report, along with redacted reports relating to other clients of DPG and to clients of another firm of solicitors, Duncan Lewis.
8. However, and despite our requests to the Government Legal Department, the SSHD has refused to disclose the numerous appendices to the full report, including all the witness evidence on which the investigator relies so heavily.
9. On 22 May 2018 the court gave permission to our client, and to a client of Duncan Lewis solicitors, to proceed with the JR. The final hearing of the JR is listed to take place on 18 October 2018.

Appeal against PSU decision

10. Our client's complaint was summarised by the investigator as: allegations that Detainee Custody Officers ('DCOs') were verbally and racially abusive to him in November 2016 and that one officer pushed him into his room (allegation 1), that he suffered reprisals after signing a petition about food quality (allegation 2), that false information about him was provided and passed to detainees by DCOs (allegation 3), that mental health treatment at Brook House was inadequate (allegation 4), and that he was subjected to excessive force on 13 May 2017 (an incident captured on film in the Panorama documentary) (allegation 5).
11. The investigator found against our client on all 5 allegations.
12. We are instructed to appeal against the PSU decision on allegations 1, 3 and 5. In relation to allegation 4 we note that it has been passed to the NHS to

address; our client may wish to appeal but as the NHS is in the process of considering the issue in the first instance we will await their response. Our client does not appeal allegation 2 because although he did sign a petition relating to the cross-contamination of halal food and the petition relied upon by the PSU investigator is a petition about food quality, making no reference whatsoever to halal food, he does not have any further information as to what happened to that petition save for his understanding that it was forwarded to a solicitor or barrister by another detainee.

Allegation 1:

13. In finding against our client on this allegation the investigator states at 7.7.1 of the full report:

D687 *made allegations against all the officers on C and then A Wing but was unable to provide any evidence of dates, times or descriptions of the white male detention officers who had told him and all the detainees to "get out of the fucking country." He was unable to describe the officer who had accused him of "taking the piss out of our country. Fuck off back to your own country" or those who would "provoke you to get you so they can restrain you and take you to the block." When he did provide descriptions these white male officers had become a ginger haired white male DCO, a black male DCO and a black female DCO. Whilst these were not the white males DCOs previously mentioned, harming* **D687**

D687 *credibility further, the two male officers had been officers that had worked on C and then A Wing. They had both left Brook House IRC. DCO Fagbo was dismissed for inappropriate conduct with a detainee in October 2017 and post the Panorama programme, DCO Instone-Brewer left.*

14. It is our submission that, in both the summary and full reports, the investigator mischaracterises our client's evidence, and his inability to recall precise dates and the names of DCOs, as inconsistency and/or evidence of lack of credibility. In fact our client has been consistent in his account of his experiences and his inability to recall precise dates and names of DCOs is evidence of neither inconsistency nor lack of credibility.
15. Our client's complaint was originally set out in the letter before claim of 17 October 2017 where we stated that he had been "subjected to almost daily abuse, including racist abuse, by detention officers".
16. In the draft witness statement we provided in advance of his interview (para's 12-13) it was stated that on an almost daily basis he was verbally abused by "white male detention officers who made racist comments...A manager called Steve would regularly swear at me...".
17. In interview when our client said (1.04.09), "Officers that are working on our Wing; they're being abusive...[Q]...I was on 'A' Wing. Then I was on 'C' Wing as well...But before...'C' Wing, that's where I suffered most of the abuse like...". In

response to a question about what happened following C Wing closure, he explains (at 1.05.13), "When we were moved to 'A' Wing it carried on. Because all the officers got moved. That's how it works...[Q – The officers from 'C' Wing went to 'A' Wing?] ...Some of them, yeah. Some of them went to 'A' Wing. Some of them went to 'D' Wing. They get moved around. Sometimes they get short-staffed...So they'll have two staff...like they will get officers that used to work on 'C' Wing to...one of them...to come to our Wing and that." He expressly stated that he did not know the names of these officers (who were on C Wing then on A Wing) but stated that he could identify them if he saw them on the internet. He also stated that the interviewer is asking the wrong questions, as he has tried to forget these people and doesn't want to remember them: "You're telling me 'remember. Give me their names. Give me their ...like.' I don't want to know them. And I'm trying to forget them in my head." (1.06.00).

18. In interview (at 05.27-06.07), he specifically mentions an officer with ginger hair "Ginger" (identified later by the investigator as DCO 02 Luke Instone-Brewer). Our client explained that this officer did not work on our client's wing but worked in the library which everyone has access to. Later on he explained that "Ginger" was dealing drugs and other contraband, referred to as parcels/packages (34.02-34.03).
19. He also stated at interview (33.00-34.03), "Some of the people that work for G4S they're foreigners themselves. They came to this country like I did...And they're treating me like I'm a fourth class citizen like." At (39.17 – 40.04) he refers to "The Irish guy...One old guy with a bit of a bald head...He was racist all the time".
20. As explained above, after viewing the CCTV footage relating to allegation 5, and taking instructions, we finalised our client's witness statement which he signed on 23 January 2018. At paragraph 13-15 of the statement he gave details of the verbal and racist abuse he experienced. He stated, as he had at interview, that most of the abuse occurred whilst he was held on 'C' Wing but that when he moved to 'A' Wing, so too were several of the officers and the abuse continued. He explained that a female officer called Maria (which the investigator identifies as Marina Mansi) was also abusive to him – he described her as "short with curly hair and I'm fairly sure she was called Maria". He did not identify her race/ethnicity. He also reiterated the point that he could not remember the names of the officers who were regularly abusive to him but that he could recognise them from photos.
21. At paragraph 15 of his witness statement he explained, "This sort of racist verbal abuse towards me and other detainees happened so often that after a while it began to feel like normal behavior. It made me feel humiliated and worthless, as though I wasn't a human being, as though I was an animal. I couldn't do anything about it because the officers had so much power. If I complained they could retaliate by destroying my paperwork or move me to another block away

from friends or they could use violence." After we provided the witness statement the investigator sent further questions by email of 30/01/18 requesting specific names of officers who were abusive to our client together with dates and times of these incidents. In an email of 20/02/18 we replied:

"Para 13 – details of officers who were abusive

The abuse occurred mainly on 'C' wing where 6 or more officers were regularly abusive and used racist language. When 'C' wing closed our client was moved to 'A' wing, as were some of these officers. The level of abuse was worse on C wing than on A wing.

The statement gives details of the white male manager called 'Steve' and a female detention officer with black curly hair called 'Maria'. In addition there was a male detention officer with ginger hair (our client does not know his name), a black male officer called something like 'Mtundee' who was short and wore glasses (he may have just been on A wing), a black female officer (name unknown). The others who were abusive were white male officers whose names our client does not know."

22. As will be seen from the above, the investigator's comment that **D687** *made allegations against all the officers on C and then A Wing...* (emphasis added) is simply incorrect; at no point did he suggest that all officers on those wings had been abusive.
23. Moreover, at no point did he say that he suffered abuse only from white DCOs. Nor did his evidence of abuse from non-white and female officers contradict his earlier evidence that he also experienced abuse from white male officers. The suggestion that, *"these white male officers had become a ginger haired white male DCO, a black male DCO and a black female DCO"* is an obvious mischaracterisation of our client's evidence.
24. A further illustration of the unfairness in the investigator's approach to the evidence is highlighted by this comment from the summary report:
- In interview, you were unable to describe the officer who had accused you of "taking the piss out of our country. Fuck off back to your own country" or those who would "provoke you to get you so they can restrain you and take you to the block."*
25. However, the interview record shows that the first comment was made by our client at 1.08.00 and the second statement is at 1.10.06 and on neither occasion did the investigator ask our client for the name of the officers or for our client to describe them. Therefore it is unfair to characterise our client as being unable to do so in interview.
26. There also appears to be an attempt by the investigator to try to re-shape our client's evidence to suggest that the particular officers he complains of only

worked on particular wings and that as our client was not held on that wing he cannot have been a victim of abuse from that officer. In so far as the investigator suggests that because our client was held on a certain wing he had no access to other parts of Brook House this is wrong; our client travelled through other wings to access activities. Likewise, to suggest that because a member of staff was based on one wing meant that they spent all their time on that wing is incorrect: staff would be moved when a wing was short staffed and staff moved about through the wings to cover activities taking place in the library, gym and the four exercise yards. Our client referred to this at his interview.

27. Our client has been consistent throughout his evidence in maintaining that abuse was widespread, that it was from officers who worked not only on their allocated wings but also on other wings and that although he could not remember all of the names of the officers he complained of, he could identify them by photographs. He was pressed in interview, and later in emails, to give names and details of officers and he did his best to give names and descriptions of the officers' appearance. And he did this despite finding it very distressing trying to recall his time at Brook House and the abuse he was subjected to there. At the interview he was highly emotional and repeatedly made it clear that he was finding the interview difficult. Also, and as we explained to the investigator during the interview, he was off his mental health medication, having been unable to register with a GP since his release from detention (interview transcript 11.02).
28. The investigator makes no allowances for these matters. Nor does she give our client any credit for the fact that despite his difficulties, the information he was able to provide did enable her to identify four of the officers our client described.
29. Moreover, there is an inconsistency in the comments of the investigator in the summary as compared to the full report. In the full report (see above), it was said that the two male officers described by our client, one of whom had been dismissed for inappropriate conduct with a detainee in October 2017 and one of whom had resigned, had both worked on C and then A wings. In contrast, in the summary it is stated:

Whilst these were not the white male DCOs previously mentioned, harming your credibility, the two male officers had been officers on the Wings and had both left Brook House IRC. DCO 03 was dismissed for inappropriate conduct with a detainee in October 2017 (heated exchange and waving hand movement) and post the Panorama programme. DCO 02 had resigned. Neither had been dismissed for verbal or racist abuse. Neither had worked on both C and A Wings. DCO 03 had only ever worked on D Wing and DCO 02 had worked on C but not A Wing. [Emphasis added].

30. It appears from the full report that they had in fact both worked on both C and A wings. Even if they had not done so, and as indicated above, detainees and officers move between wings. Moreover, the fact that of two officers identified by

our client one was dismissed for inappropriate conduct towards another detainee, and other resigned for unknown reasons, lends support to our client's complaint; and it is erroneous to infer that as these staff members were dismissed/resigned for reasons other than verbal or racist abuse, they never displayed such traits.

31. The investigator relies on the fact that our client did not make complaints about the abuse whilst detained (para 7.1.2 of the full report). This overlooks the point made by our client in his witness statement (para 15) that abuse from DCOs came to feel normal and nothing could be done about it due to the imbalance of power and risk of reprisals.
32. All staff spoken to by the investigator claimed never to have witnessed verbal and racist abuse (para 7.1.3), and the PSU investigator relied on internal records in concluding that our client was abusive, rather than staff. This is in stark contrast to the evidence shown in the Panorama documentary. The weight given to the evidence of staff in the face of the clear footage of the documentary strongly suggests that the investigator has not approached her work fairly and impartially.
33. The PSU investigator does not place any meaningful weight on the fact that two of the officers that our client complained about – Steve Webb and Babatude Fagbo – had both been dismissed from Brook House due to inappropriate conduct towards detainees. Steve Webb was dismissed following a disciplinary after the Panorama Programme. At his hearing, he had admitted to making three inappropriate comments to a detainee as shown in the Panorama footage. He did not respond to a request to be involved in the investigation into our client's complaint. The investigator notes there had been two previous complaints of excessive use of force and aggression against him. Whilst she says these were unsubstantiated the fact that there were previous complaints lends further support to our client's complaint (para 6.1.3 and 7.1.4). DCO Babatude Fagbo was dismissed for inappropriate conduct with a detainee in October 2017 (para 7.1.1). A third officer, DCO Luke Instone-Brewer left for reasons which the investigator does not give (para 7.7.1).
34. These officers were not interviewed and yet, despite the clear credibility issues surrounding two of them, and their propensity to act inappropriately towards detainees, the investigator instead dismisses our client's complaint based on his own alleged incredibility.
35. It should also be noted that in light of body worn camera (BWC) issues revealed in response to allegation 5, it is not surprising that there is no video evidence that DCM Steve Webb was abusive to [D687] regularly. Recordings were routinely deleted unless they related to a use of force and [D687] states in interview that staff would turn their cameras off (21.16) prior to abusing detainees. Given that DCM Steve Webb only admitted the three inappropriate comments caught on the Panorama Programme described above, when there was indisputable evidence

of them, we submit it is highly unlikely that they were the only incidents of verbal abuse directed by him to detainees, including our client.

36. As regards the complaint that 'Maria' (identified as Marina Mansi by the investigator) was abusive to him when locking him in his cell, our client has been consistent in his account that whilst he did swear at the officer, this was as a result of provocation, a tactic used by officers – interview (1.10.06); draft witness statement (17-18); and signed witness statement (21-22). The investigator states that Marina's account is consistent with her report. That does not prove her report is accurate.
37. In relation to the incident where our client says he was pushed back in to his cell, hitting his head, it is accepted that he struggled to recall the precise date. The investigator stated in her email of 9 February 2018 that there were 4 searches of our client's room in 2016 and 3 in 2017; whilst it may be disproportionate to interview every staff member named in all of those, it would not be disproportionate to review their paperwork to identify if any of these searches fit our client's description of events. The decision is taken not to do so, on the basis of our client's damaged credibility and internal inconsistencies but, as we have set out above, the investigator's conclusions about our client's evidence are unreasonable and the impression given is that the investigator is actively seeking an excuse not to investigate further and establish potential findings against the Home Office.

Allegation 3:

38. Our client's complaint is that misinformation, including that he had been convicted of a sexual offence, was given to detainees by staff.
39. In response to this complaint the investigator states:

The up to date PNC check showed that [D687] was charged with the offence of [Sensitive/Irrelevant] on 02 December 2009. He pleaded guilty to this at Harrow Crown Court on 24 May 2010 and was imprisoned for [Sensitive/Irrelevant]. This latter entry was on the PNC submitted by [D687] via his representatives but the detail of the offence was not. The [Sensitive/Irrelevant] [Sensitive/Irrelevant] and [D687] was convicted on this. He did have a conviction for [Sensitive/Irrelevant] (para 7.3.5).

40. At 7.3.7 she concludes,

It is unclear why [D687] was so upset about the allegation of sexual assault being mentioned in his cultural kitchen decision. The fact was his full PNC showed that he did have [Sensitive/Irrelevant] and this was in relation to [Sensitive/Irrelevant]. He lied openly in interview about not having any [Sensitive/Irrelevant] convictions. Given

this lie, on the evidence now the second direct lie, his allegation against officers, specifically DCO Mansi, spreading misinformation falls away as does his credibility.

41. The PSU investigator's statement that the PNC shows our client was convicted of a sexual offence is clearly wrong. The PNC shows he was convicted on 2 December 2009 of **Sensitive/Irrelevant** for which he was sentenced to **Sensitive/Irrelevant** on 24 May 2010. He was not convicted of a sexual assault. A conviction for a sexual assault, including sexual assault by penetration, would be under Sexual Offences Act 2003. There is no such conviction on the PNC. Our client was charged with an offence of digital penetration under the Sexual Offences Act (along with and **Sensitive/Irrelevant**) but he was not convicted of a sexual offence; he was convicted of **Sensitive/Irrelevant** only. The PSU investigator's claim "*that you did have Offences Against the Person and this was in relation to a physical act of digital penetration; a sexual assault...*" is wrong and is based on a misunderstanding of the PNC print out and the legislation. She also ignores the evidence of Head of Security (HOS) at Brook House, Michelle Brown, who told the investigator that although there was mention of "digital penetration" (used his hands to abuse a female) on our client's record, he was never convicted (para 6.2.14).
42. Having made this fundamental mistake about our client's convictions, the investigator concludes that our client lied about his convictions and that accordingly his complaint (that detention officers told detainees that he was a sex offender) was unsubstantiated. She fails to fully investigate the complaint because she has already wrongly decided that our client has a conviction for sexual assault and that he therefore lacks credibility. Her findings on this allegation cannot stand.

Allegation 5:

43. Our client complains that he was subjected to excessive force on 13 May 2017 (an incident captured on film in the Panorama documentary).
44. The investigator relies on her findings against our client on allegation 1 in finding against him in respect of allegation 5 (see para 7.5.5). We refer to our above points as to why those findings are unsafe.
45. We would also make the point that our client was very emotional during the interview, specifically when asked to recall this event, saying, "I'm having these like emotions like telling me like...explaining like...what happened to me when I...the moment that I decided to end my life like...And I don't want to explain myself all over again bringing back emotions and that." (interview transcript 28.17). The investigator makes no allowance for this, our client's mental health problems or the fact that when interviewed our client had not been receiving medication for several months.

46. As with allegations 1 and 3 the investigator approaches the investigation with the apparent intention of searching for inconsistencies and using these to disprove our client's account. For example she places considerable weight on our client's inconsistent comments about whether the t-shirt he used as a ligature was cut, ripped or torn, and whether it was in strips or in one piece. She points to our client referring in his witness statement to the t-shirt being cut or torn into strips and tied together whereas the CCTV footage shows that the t-shirt when removed from our client was in one piece.
47. We accept that the CCTV footage appears to show that the t-shirt was in one piece before and after it was used as a ligature. The reference in the witness statement to the t-shirt being cut to strips was due to our mistaken assumption that it was cut into strips; we described it as such when drafting our client's witness statement and [D687] did not pick this up when he checked the witness statement. However, we would point out that at interview [D687] did not refer to the t-shirt being cut or torn into strips; on one occasion he refers to cutting it, but he also refers to ripping it (54.03); and he doesn't refer to it being in strips. Mostly when he talks of the t-shirt being cut it is to dispute whether the t-shirt was cut off him by officers or ripped off him. In response to the PSU investigator stating, "And you said that they cut the t-shirt from your neck. ...", our client clearly explained that "They didn't cut. Like they ripped it. They dragged me to the floor. They didn't even rip it. They dragged me to the floor with the t-shirt. But I still had my t-shirt on my arm and that." (41.01).
48. Moreover, whilst the t-shirt does appear from the CCTV footage to be in one piece when removed from the w/c, this is not inconsistent with [D687] having ripped it prior to his suicide attempt. Indeed DCO Martin says 'when I opened the door I could see [D687] sitting on the toilet with a ripped up t-shirt...' (6.4.2).
49. In any event these matters are of only peripheral relevance to the allegation of excessive use of force; the essential point, that our client was using his t-shirt as a ligature and that it was attached to the handrail and placed around his neck, is not in dispute.
50. The investigator makes a lot out of our client's comments that DCMs Steve Webb and Nathan Ring were being involved in the use of force when records show they were not on duty that day. However, when the interview notes are analysed carefully our client was saying that Nathan Ring wasn't involved and he was not certain that Steve Webb was involved. What he was clear about that the DCM involved was wearing a red shirt (12.00, 14.00, 19.05, 40.13, 41.01 and 59.03).
51. Our client stands by his account that officers pushed him face down to the ground, that he could not tell which officer did what to him, someone grabbed him round the neck, someone grabbed his fingers and twisted them, someone kned or thumped him very hard in his ribs, someone sat on his back, his chest and face were

compressed against the floor and someone told him to "fuck off back to his own country".

52. He also stands by his account that he told officers and the nurse who attended that he was suffering from pain to his ribs. The investigator readily accepts the accounts of officers, despite the medical records from the hospital which show that he had indeed suffered bruising to his chest, an injury consistent with his description of the use of force, and despite Nurse Parr's admission that her memory is 'not brilliant' (6.6.1).
53. As the investigator says, the Panorama footage stops before or at the start of the use of force. The CCTV footage is taken from the waiting area and the events inside the w/c cannot be seen clearly enough to establish what went on there. Evidence from body worn cameras (BWCs) would have been good evidence of the force used against our client. In accordance with BWC policy BWCs should have been worn by the attending managers and should have been activated before the use of force. It appears that they were worn by the DCMs but not activated.
54. The investigator identifies that BWCs were worn by two of the attending managers (DCMs Donnelly and Farrell) but that neither of them activated their BWC.
55. The investigator describes the BWC policy as saying:

BWC shall be worn at all times whilst the Manager is on duty 24/7, unless an exception is granted by the G4S Duty Director...Staff should activate the BWC to record all contacts with detainees in the performance of official duties dealing with incidents and responding to alarm calls...use of force.' (7.5.32).

56. The investigator also notes the following:

The Use of Force report by DD Haughton stated BWC was used. Checks with Security at Brook House IRC stated that BWC were introduced by G4S at Brook House IRC in January 2016 for use by DCMs. The cameras were on general allocation and the use of BWCs was not enforced. The DEMs stand alone computer was used to log the use of the cameras and download and store the footage, however this broke down around mid 2016 and from that period onwards the use of BWCs was not recorded and monitored in a separate log. Instead the footage was downloaded by the security department if it related to a use of force or self harm incident, but there was no specific log to record what BWC footage existed. Any other footage was deleted as there was no method to retain it.

There are no records kept of which DCMs were issued with BWCs on any day nor records of who used them. In addition to the computer system not being available, some of the cameras stopped working and therefore the use of BWCs reduced. Whilst DCMs could use BWCs, the non-use of the cameras was not

challenged in the way it would be under current policy. It would have been possible for a user to delete the camera footage by plugging it into a computer with a camera lead. Since October 2017 a new policy and new BWC equipment was introduced. All DCMs and DCOs have BWCs and are expected to use them for all incidents. This footage is retained in case of a future complaint or investigation. The non-use of a BWC will now be challenged by security staff.

Whilst an unsatisfactory response in relation to events on 13 May 2017, it does show these significant organisational failings in respect of BWC have now been addressed. It does not detract from the fact that the report said it was used, yet none is available. (7.5.33; 7.5.34; 7.5.35).

57. Whether intentional or not, the record of the use of force prepared by the Deputy Director is inaccurate. The investigator fails to identify this as an inconsistency, or consider what impact it may have, or the fact that BWCs were not activated, on the credibility of the accounts of the officers. The investigator thus adopts an unequal approach towards the evidence of officers compared to that of our client in respect of whom inconsistencies are highlighted and linked to his credibility.
58. The question also arises, but is not addressed by the investigator, as to how it was that the Deputy Director made multiple errors on the use of force form, particularly given existing training and policy, and whether this indicates a wider systemic problem.
59. Nor does she consider why BWCs were not used on more than one occasion (this incident and the use of force when our client was pushed back into his cell - see above), given existing training and policy, and whether this indicates a wider systemic problem.
60. The investigator's analysis of the use of force proceeds on the basis that it was reasonable and justified to use force to enforce a transfer order in circumstances where our client was clearly highly agitated, had tied a ligature, and was threatening suicide. The investigator should have considered the appropriateness of using force in those circumstances, particularly given the potential impact on a suicidal detainee of using force to remove a ligature and then immediately effecting a transfer.
61. Our client's complaint also raises questions over the management of mental health and the movement of detainees suffering from mental ill health, general matters which the investigator fails to deal with. It is clear from the detention centre records and the medical records that our client had long-standing mental health issues and that he had threatened self-harm. An ACDT had been opened on 5 May 2017 after he had threatened to take an overdose of Spice and he remained on an ACDT plan yet a decision was made to transfer him, against his wishes, to another IRC. The healthcare records show he was under healthcare for mental health problems and the plan was for him to attend various well-being groups. Healthcare do not seem to know that he was about to be moved. It would seem very questionable to transfer such a vulnerable person who is on an ACDT and under healthcare

and unreasonably risky to continue with the transfer immediately in the wake of his attempted suicide.

62. We would add that our client's evidence refers to Spice being brought into Brook House by officers (para 6.1.12 5.11 of the full report). His comments chime with those of our client "[D191]" (our ref: 3199/005), for whom we submitted an appeal to the PPO on 13 July 2018, specifically in respect of the PSU's failure to address "[D191]" complaint of the importation and use of Spice at Brook House. The investigator in "[D687]" complaint, in common with the investigator in "[D191]" complaint, has failed to investigate this aspect of "[D687]" complaint.

Next steps:

We would be grateful if you would acknowledge receipt of this appeal. Please do not hesitate to contact us if you have any queries.

Yours faithfully

Signature

DEIGHTON PIERCE GLYNN

Enc