

BROOK HOUSE INQUIRY

First Witness Statement of James Wilson on behalf of Detention Action

I provide this statement in response to a request under Rule 9 of the Inquiry Rules 2006 dated 5 May 2021. I have been authorised by Detention Action of The Green House, 244-254 Cambridge Heath Road, London E2 9DA to provide this witness statement.

Introduction

1. I have been Deputy Director at Detention Action since April 2019. From January 2021 to September 2021 I was Acting Director whilst our Director Bella Sankey was on Irrelevant From September 2021 I reverted to my post as Deputy Director.
2. During the relevant period I was employed as Director of Gatwick Detainees Welfare Group ('GDWG'). I was in that role from June 2016 to December 2018.
3. In this statement I am providing evidence on behalf of Detention Action. I provided a Rule 9 witness statement signed on 15 November 2021 and oral evidence to the Inquiry in my capacity as Former Director of GDWG. I also signed a statement on 13 September 2018 within the Judicial Review proceedings which preceded this Inquiry.
4. I have 16 years of experience working in the refugee, asylum and detention sectors, including nine years in managerial roles. I have an MA in Human Rights. I have worked with asylum seekers, refugees and other vulnerable migrants since February 2006, initially for the British Red Cross for ten years (2006-2016), then as the Director of GDWG until December 2018. Whilst Director of GDWG I was invited

to give oral and written evidence to the Home Affairs Select Committee (“HASC”) inquiry into Brook House.¹ I also led GDWG in giving detailed evidence² to Stephen Shaw's second inquiry (published 2018) and evidence to the Joint Committee on Human Rights (“JCHR”) Inquiry into Immigration Detention in 2018.³ In addition, I contributed to the investigation undertaken for G4S by Kate Lampard and Ed Marsden whose report was published by Verita in November 2018.

5. My past three roles (at Detention Action, GDWG and as Service Manager of the International Family Tracing team at the British Red Cross) have involved overseeing staff and volunteers working directly in immigration detention, and visiting IRCs myself to assist people detained.
6. As I was not working at Detention Action in the relevant period I have, in order to answer the Rule 9 questions, consulted with colleagues at Detention Action who were working as staff at the charity during the relevant period and, where appropriate, a member of staff has reviewed our client records for the relevant period.
7. I should add that Detention Action does not have the consent of our clients to share their personal details or details of specific incidents with the inquiry and we would be reluctant to do so as it may cause our vulnerable clients fear or harm if they were to discover that we have shared their details without their consent. Where client

¹ Home Affairs Select Committee, Brook House Immigration Detention Centre Inquiry; for Oral Evidence given by GDWG on 14 September 2017, see: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/home-affairs-committee/brook-house-immigration-removal-centre/oral/70108.pdf>; and for Written Evidence given by GDWG on 1 October 2017, see:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/home-affairs-committee/brook-house-immigration-removal-centre/written/70709.pdf>

² “Evidence for the Stephen Shaw Inquiry 2017”, November 2017:

<https://www.gdwg.org.uk/app/uploads/2018/04/17.11.29-GDWG-Evidence-for-Stephen-Shaw.pdf>

³ Joint Committee on Human Rights, Immigration Detention Inquiry; for Written Evidence given by GDWG on 14 September 2018, see:

<http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/human-rights-committee/immigration-detention/written/89835.pdf>

records have been used to provide information in this statement, the information will therefore be provided only in general terms, so as not to identify any specific individual or individuals.

Detention Action

8. Detention Action is a registered charity [Charity no.1065066] formed in 1993. Originally known as London Detainee Support Group, Detention Action exists to support people held in immigration detention. We work with people held in the Immigration Removal Centres (“IRCs”) at Harmondsworth and Colnbrook and those held under immigration powers in prisons throughout the UK, by signposting them to relevant organisations or lawyers depending on their needs. We have previously supported people detained in several detention facilities since closed, including Morton Hall and The Verne IRCs. Detention Action is not registered with the Office of the Immigration Services Commissioner (“OISC”) and we do not provide legal advice or other legal services to our clients.
9. We advocate for the rights of detained people mostly through engagement with public authorities including central government and our policy work. We engage with government in respect of issues relating to people detained under immigration powers. For example, we are members of the Detention Sub-Group of the Stakeholder Engagement Group, which is also known as the National Asylum Stakeholder Forum, and I am the co-chair of that Sub-Group, along with Matthew Bligh from the Home Office’s Enforcement and Criminality Group. We are on the invitation list for the Heathrow IRCs (Harmondsworth and Colnbrook) Stakeholder Group. We are one of a group of NGOs that have been regularly invited to give feedback to proposed developments around the Home Office Adults at Risk detention policy.
10. Detention Action has been invited to give oral evidence to Parliamentary inquiries, for example the Home Affairs Committee inquiry into Modern Slavery in July 2019, and the Joint Committee on Human Rights inquiry into immigration

detention in 2018. We have provided written submissions regarding proposed changes to the Detention Centre Rules and to various Detention Service Order developments.

11. Detention Action submitted written evidence to the Stephen Shaw reviews on vulnerable detained people of 2016⁴ and 2018⁵. During both reviews, we also participated in joint NGO meetings with Stephen Shaw, and our former Director Jerome Phelps met separately with Sir Stephen during the second review, in particular to discuss alternatives to detention work.
12. Detention Action provided written submissions to the Home Affairs Select Committee (HASC) Inquiry into Immigration Detention in 2018.⁶ The recommendations we made in these submissions included a call for a clear monitoring process to assess how the Adults at Risk Policy was fulfilling the Government's commitment to safeguard the most vulnerable people.
13. Detention Action provided written submissions to the JCHR's Inquiry into Immigration Detention in September 2018.⁷ These submissions highlighted the frequency of inhumane and degrading treatment within detention, and called for a move away from an immigration system based on aggressive enforcement. Our Director Bella Sankey also gave oral evidence, along with Freed Voices, to this inquiry in December 2018.⁸

⁴ <https://detentionaction.org.uk/publications/detention-action-submissions-to-the-shaw-review-april-2015/>

⁵ <https://detentionaction.org.uk/publications/submissions-to-the-second-shaw-review/>

⁶ <https://detentionaction.org.uk/publications/detention-action-submissions-to-the-home-affairs-select-committee/>

⁷ <https://detentionaction.org.uk/publications/detention-action-submission-to-the-joint-committee-on-human-rights-inquiry-into-immigration-detention/>

⁸ <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/human-rights-committee/immigration-detention/oral/92251.pdf>

14. Bella Sankey gave oral evidence to the HASC on 21 April 2020 on the Home Office's response to COVID-19 in immigration detention⁹, and also submitted written evidence to this¹⁰.
15. In addition, Detention Action provided written submissions to the Independent Chief Inspector of Borders and Immigration (ICIBI) for his annual inspection of the Adults at Risk policy in February 2019¹¹; both written and oral evidence to the HASC Inquiry into Modern Slavery (September 2018)¹²; a response to the Tribunal Procedure Committee in relation to detained appellants (October 2018)¹³ a response to the proposed DSO on Mental Incapacity (October 2019)¹⁴; a response to the proposed DSO on lock-ups at night (November 2018)¹⁵ a response to the proposed DSO on access to video calls (January 2020)¹⁶; and to proposed revised IRC rules (June 2019)¹⁷.
16. Bella Sankey gave oral evidence to the Immigration Bill Committee in 2019 on the situation in IRCs and on necessary reforms, principally the need for a time limit¹⁸.
17. Research reports by Detention Action have included 'Without Detention' (2016), an overview of the opportunities for alternatives to detention.¹⁹ Detention Action

⁹ <https://committees.parliament.uk/work/184/home-office-preparedness-for-covid19-coronavirus/publications/oral-evidence/>

¹⁰ <https://detentionaction.org.uk/publications/submission-to-the-hasc-consultation-on-home-office-preparedness-for-covid-19/>

¹¹ <https://detentionaction.org.uk/publications/adults-at-risk-in-immigration-detention/>

¹² <https://detentionaction.org.uk/publications/submission-to-the-hasc-inquiry-into-modern-slavery/>

¹³ <https://detentionaction.org.uk/publications/tribunal-procedure-committee-submission/>

¹⁴ <https://detentionaction.org.uk/publications/detention-action-response-to-dso-on-mental-capacity-disability-in-immigration-detention-october-2019/>

¹⁵ <https://detentionaction.org.uk/publications/detention-services-order-response/>

¹⁶ <https://detentionaction.org.uk/publications/submission-re-detention-services-order-on-access-to-video-calls/>

¹⁷ <https://detentionaction.org.uk/publications/submission-to-the-irc-rules-consultation/>

¹⁸ <https://services.parliament.uk/Bills/2017-19/immigrationandsocialsecuritycoordinationeuwithdrawal/committees/houseofcommonspublicbillcommitteeontheimmigrationandsocialsecuritycoordinationeuwithdrawalbill201719.html>

¹⁹ <https://detentionaction.org.uk/publications/without-detention/>

has also produced numerous briefings, for example on those trafficked into detention,²⁰ and the continuing detention of vulnerable people.²¹

18. Detention Action has also brought strategic litigation to seek to effect change in immigration policy and practices. In March 2020, in the early weeks of the COVID-19 pandemic, Detention Action challenged the government's policy on immigration detention during the outbreak; this litigation was ultimately successfully settled, having led the Home Office to commit to reviewing all detentions.²² Detention Action also brought Judicial Review proceedings to challenge the Home Office's removal of detained people on the Jamaican Charter flight (February 2020)²³ and the Home Office's Detained Fast Track scheme.²⁴ In May 2021, Detention Action issued judicial review against the Legal Aid Agency relating to the Detention Duty Advice Scheme (DDAS) which provides legal advice within the IRCs.²⁵
19. Additionally, Detention Action has provided generic evidence on detention issues in strategic litigation brought by individuals. For example, Detention Action has provided witness evidence about the release of vulnerable detainees without adequate support in place²⁶ and the lack of provision of bail accommodation.²⁷
20. We do not currently, and did not during the relevant period, work specifically with people detained at Brook House IRC ('Brook House'). However, as many people are transferred between IRCs, we worked with a number of people who had previously been detained at Brook House during the relevant period. In addition, as an increasingly prominent organisation supporting people detained and campaigning for reform of the detention and asylum systems, we are occasionally

²⁰ <https://detentionaction.org.uk/publications/trafficked-into-detention/>

²¹ <https://detentionaction.org.uk/publications/vulnerable-people-in-detention-after-the-shaw-review/>

²² *Detention Action and Mikhail Ravin v Secretary of State for the Home Department* (CO/1101/2020)

²³ *Detention Action v Secretary of State for the Home Department* (CO/392/2020)

²⁴ *Lord Chancellor v Detention Action* [2015] EWCA Civ 840

²⁵ *R (Detention Action) v The Lord Chancellor* - CO/1385/2021

²⁶ *TVN v Secretary of State for the Home Department* (CO/387/2020)

²⁷ *DX v Secretary of State for the Home Department* [2010] EWHC 3151 (Admin)

contacted by people held at Brook House. Through our work at the largest combined detention facility in the UK at Heathrow, in addition to across the prison system, we work with around 1,000 people detained each year, and therefore have extensive insight into the operations of the detention estate, prior to, during the relevant period and since.

21. We undertake a significant volume of comprehensive casework support for detainees. Though face-to-face support has unavoidably been severely restricted by COVID-19, normally our support is provided through volunteer visitors, drop-in clinics and an advice telephone line for detained people to call. The casework service is currently run by two Senior Advocacy Coordinators, two Advocacy Coordinators and three Advocacy and Support Workers, along with around 60 volunteers (office volunteers, visitors and interpreters). Each person detained who wants one is assigned a volunteer visitor who visits weekly and will normally maintain regular telephone contact between visits. Prior to the pandemic, drop-in clinics were held fortnightly at the Heathrow IRCs, alternating between Harmondsworth and Colnbrook. The clinic is a half-day session, typically run by two staff members and up to four volunteers, and is a drop-in conducted in the welfare area. Detained people can come for advice and support, whether or not they have approached us before. The client may receive one-off advice, but in the majority of cases there will follow-up support provided from the office. In addition, we operate a weekday freephone advice line which typically takes 20-30 calls per day.
22. A casework file is opened for each detained person in contact with Detention Action and contemporaneous notes are made of all calls and interactions with detained people. Typically, at any one-time we are working on over 60 open cases in the office, in addition to the clients receiving volunteer visits or being given one-off advice at the drop-in sessions. We therefore have a large database of information on all aspects of detention policy and practice which informs the research and campaigning work done by the charity.

23. The support we offer detained people is holistic, covering a large range of issues that arise, and is provided for periods ranging from a few days to several years. Often casework concerns several complex issues and can be intensive, involving speaking with a detained person several times in the course of the day. Advice and assistance is provided on issues such as access to medical and mental health provision, Rule 35 medical reports, support for disabled detained people, access to lawyers, segregation, the use of control and restraint, assault on removal or attempted removal, racism and abusive behaviour by IRC staff, bail accommodation and post-release support. At a sadly very frequent rate, detained people talk to Detention Action about thoughts of, or actual self-harm, food refusal, and issues arising from the prevalence of drugs within IRCs. We are frequently made aware of issues where detained people have no or limited English and face significant challenges accessing services due to this barrier. Detained people are assisted to make applications to the Home Office for release accommodation, referrals are made to lawyers and other organisations for specialist advice, applications are made for Exceptional Case Funding (a type of legal aid for situations where legal aid is not usually available), and on-going liaison is maintained with lawyers and organisations as required. Whilst we are not registered to provide immigration advice, our staff have a high degree of specialist knowledge around detention issues and this enables them to make appropriate referrals, for example for unlawful detention claims. Staff also frequently advise clients on complaints mechanisms within the relevant IRC, for example in relation to centre staff conduct or conditions within the centre; chase outcomes when clients are waiting for Rule 35 appointments or decisions; and assist clients in raising healthcare concerns or concerns around delays in treatment to the healthcare teams.

Mistreatment of detained people

24. I have been asked whether Detention Action has first-hand knowledge of physical mistreatment or verbal abuse, including racist abuse, by staff of detained people, or

of violence or verbal abuse between detained people, at Brook House during the relevant period.

25. As Detention Action does not visit people inside Brook House we have no first-hand knowledge of any such incidents. However, Detention Action assisted 14 individuals who had been detained at Brook House during the relevant period. Of those one reported to us, when we were assisting him immediately after his transfer away from Brook House, that whilst he was detained there he was physically mistreated by detention officers during an attempted removal.
26. To assist the Inquiry, I attempted to reach the above 14 clients during May 2020, and again in October 2021, to check if they would feel able to give evidence to this Inquiry in some form, but I was unable to reach any of them. Either they did not return my call, or their phone number was engaged or unavailable. This was unsurprising given the length of time since we had worked with most of these clients. Some clients may no longer be in the UK and phone numbers often change after release from detention or transfer to a different facility. It is also possible that our clients are reluctant to give evidence to the Inquiry for fear of repercussions for their immigration case and/or if they were to be redetained. Those who have been through immigration detention relatively recently may well also be experiencing ongoing challenging life circumstances, for example in relation to ongoing uncertainty in their immigration case and the ongoing impact of trauma from their detention or other life experiences, and these circumstances may very well affect our clients' ability or willingness to give evidence.
27. I am unable to provide further information about the client mentioned above who reported mistreatment. At the earliest possible stage in our work with a new client (normally in our first full conversation with our client), we explain that we keep all their details strictly confidential to Detention Action, unless the client gives express permission to share information with a third party or a safeguarding issue means we have to break confidentiality. Given this confidentiality agreement, we would

only be able to share further details relating to a client if we were able to speak with them and obtained their express consent. As explained above, this has not been possible. If we were to go back on our own confidentiality agreement, I would have serious concerns about how we would be viewed by the groups we support, who often already have little trust in the system. It can take a significant period of time to build up trust with a detained person even coming from an independent charity.

28. The events at Brook House in 2017 revealed by Panorama were shocking and deeply disturbing. In the view of Detention Action, these are unlikely to be the only such incidences that occurred in the detention estate in 2017 or since. They may well simply have been amongst the rare times that such behavior by staff, such an horrendous culture of poor care and such suffering by people detained, happened to be captured on film and made public. Detention Action frequently hears concerns from detained people about the conduct of staff within the IRCs and about issues between detained people. Often, our clients do not feel able to share full details or raise complaints for the reasons suggested below. However, our ongoing impression from our frontline work is of a desperate environment. This is unlikely to be limited to one particular IRC in one particular snapshot of time although we recognise that they vary. Understanding how and why they vary is of course important to understanding how they can be improved.

Complaints

29. Detention Action has no first-hand experience of whether people detained at Brook House in the relevant period were able to make complaints of physical mistreatment or verbal abuse by staff or other detained people.
30. However, it is the experience of Detention Action, from our work with our clients during the relevant period, that the complaints mechanisms available were used rarely by detained people to make complaints of physical mistreatment or verbal abuse by staff or other detained people, or indeed complaints about any other matters. We were (and have continued to be) aware that people sometimes make

complaints about some issues to detention officers or wing managers, though we are often unclear as to whether these are (or are treated as) formal complaints under the complaints procedure of those running the IRCs. However, in our experience it may well be the case that the more serious the issue, the less likely a detained person is to raise a complaint, because the more concerned they are likely to be about repercussions.

31. Depending on the nature and subject matter of the complaint, detained people can complain of mistreatment to the organisation running the IRC (such as a wing manager or to the Safer Custody Team), the organisation running the healthcare department (if different), the Independent Monitoring Board (“IMB”), the Home Office, the police or their MP.
32. We find that people detained are often very unwilling to use any of these channels for complaints because they believe complaining will not help them and/or they fear a negative impact on their immigration case and/or reprisals from detention staff. For example, we have known clients decide not to complain because they worry that they may as a consequence be placed in segregation (even though such measures are not meant to be used punitively). When our clients have raised serious allegations against staff at the Heathrow IRCs, they have been very reluctant for us to raise this with management due to fear of reprisals against them and fear that their complaint will not being taken seriously anyway.
33. It is worth emphasising: this cohort of people are often fearful. They are untrusting of authority. But they have every right to be. They see mistreatment by the authorities, and they rarely, if ever, see results being brought about as a result of having made complaints. Few believe complaints are the route to a positive outcome.
34. Some detained people may also be too mentally unwell or lack the mental capacity to raise complaints. There is only very limited access to legal advice for those

detained in IRCs, and frequent problems accessing solicitors means many detained people are left without legal representatives with whom they might discuss their complaints. Welfare Officers, whilst in our experience usually dedicated and helpful, are frequently under huge pressure and very short-staffed, making it difficult for detained people to raise complaints through this route.

35. In our experience complaints processes are not well publicised in IRCs. When we go into IRCs we rarely see information leaflets or posters about how to make a complaint to the IRC, the Home Office, or the IMB. In or by the Welfare Offices there are usually trays of forms which include forms, written in English, to complain to the IMB and a box to put the forms in, but a detained person would have to pick up the form, read it and understand English, to know what the form is about. This might partially account for detained people rarely making complaints. However, even if there was better publicity the above factors are very likely to continue to deter detained people from making complaints, particularly about serious matters where they may perceive the risk of reprisals is higher.
36. It is our experience that where a detained person does complain of mistreatment by other detained people the response of IRC managers is usually to move the complainant to another wing or even to transfer them to another IRC. This has the unfortunate effect of removing a person from any support network they have been able to establish, thereby having a negative impact on the victim, rather than on the alleged perpetrators. Detained people's awareness of this likely outcome is yet another reason that they are reluctant to report mistreatment by other detained people or to ask us to report matters to the relevant IRC's Safer Custody Team. Depending on the nature of the issue, detained people may fear reprisals from other detained people. It is rare for a detained person to express faith in the ability of detention staff to keep them safe.
37. In our view the above impediments to making complaints of mistreatment applied across the detention estate, including at Brook House, during the relevant period,

and indeed these factors continue to apply across the detention estate. The NGO Liberty ran a project from March 2018 for a period of a couple of years which sought to investigate the effectiveness of detention complaints and support those who were making complaints. Individuals from four IRCs, including Brook House, who wished to pursue a complaint about their treatment and the conditions in immigration detention were referred to Liberty for assistance with making a formal complaint. Detention Action referred a number of our clients to Liberty under this project. During the project, in March 2019, Liberty made submissions to the Independent Chief Inspector of Borders and Immigration (**ICIBI**) in response to the ICIBI's call for evidence on the efficiency and effectiveness of the Home Office's handling of complaints about its performance of its asylum, immigration, nationality and customs functions. The submissions provide helpful additional insights into the obstacles faced by detained people (and their representatives) in making complaints, and make recommendations for change.²⁸

Scale of mental health problems and other vulnerabilities in the detention population

38. Panorama showed detained people in states of extreme distress and mental health crises, receiving not care but violence and mockery from the officers charged with their custody.
39. There is distress and mental ill-health across the detention estate. In the first quarter of 2017 alone, there were 132 incidents of self-harm requiring medical treatment in detention centres, more than double the 63 recorded in the equivalent period of 2016.²⁹

²⁸

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/89866/0/An_inspection_of_the_Handling_of_Complaints_and_MP_s_Correspondence_by_the_Home_Office_Borders_Immigration_and_Citizenship_System.pdf at paragraphs 5.30-5.33 and Annex D.

²⁹ FOI, quoted at <http://www.no-deportations.org.uk/Resources/Self-Harm%202017.html>

40. The vulnerability of people in detention was the key focus of the inquiry by Stephen Shaw, published in January 2016. In response to the criticisms of the Shaw Review, the Home Office introduced the Adults at Risk policy in July 2016, which aimed to improve the safeguards for vulnerable people.
41. However, the numbers of vulnerable people held in detention centres remained very high. Detention Action collates, from our client records, quarterly and annual statistics covering trends we are seeing in terms of matters such as the nationalities of people detained, how long they are being detained and vulnerabilities in clients we identify. As regards vulnerabilities, we record whether a client has any of the indicators of risk which are described in the Adults at Risk policy.
42. For the year 1st April 2017 – 31st March 2018, our figures show that 626 clients (55% of the 1138 clients we worked with over the year) were identified by us as having one or more of the risk factors described in the Adults at Risk Policy. We identified 180 clients (15% of our total number of clients) over the year as having mental health problems (including depression, anxiety, panic attacks etc), 137 (12%) as having ongoing physical health conditions/problems, 72 (6%) as torture survivors, and 61 (5%) as at serious risk of self-harm or suicide.
43. This is likely to be an underestimate of the level of vulnerability of people in detention because the most vulnerable, for example those with severe mental illness and those with less English language ability, often struggle to access our services. Broadly speaking it is those detained persons with fewer vulnerabilities who find out about Detention Action, approach us at our drop-ins, or call us.
44. The scale of mental health problems, and other vulnerabilities, of those held in detention has not improved in the years since the relevant period. This is despite the Adults at Risk Policy, the gradual reduction in numbers detained between 2015-2020 and the significant reduction of numbers detained during March-April 2020 following the outbreak of the pandemic. Our most recent annual figures, for

1 April 2020 to 31 March 2021, show that we identified 59% of the 534 new clients we advised over the year as having a vulnerability, with 220 (41%) identified as having a serious mental health issue, 119 (22%) a serious physical health issue, 79 (15%) indicators of trafficking and 56 (10%) were survivors of torture.³⁰

45. It is our experience that the Adults at Risk Policy did not, in the relevant period, or since then, operate well at identifying vulnerable people or keeping them out of detention. In our written evidence in 2018³¹ to the Stephen Shaw Review of Welfare in Detention of Vulnerable Persons we set out our experience of meeting vulnerable people in detention on a daily basis, many detained for several months or even years. Our evidence included the results of monitoring we undertook after the introduction of the Adults at Risk policy, to research the effect of the policy on our clients detained at Harmondsworth, Colnbrook and The Verne IRCs. Our research included an intensive period of monitoring between May and August 2017, where we collected and reviewed data for 48 clients who appeared to us to be adults at risk under the terms of the policy (either because a Rule 35 report had been sent to the Home Office or medical records showed the client appeared to have serious mental health problems). This period corresponds closely to the relevant period of this Inquiry and I would therefore suggest that it is relevant evidence for the Inquiry.
46. Of the 48 cases identified by Detention Action between May and August 2017 as having triggered the policy, detention was maintained in 85% cases (41 of 48 clients). Only 7 individuals were released on temporary admission following assessment as adults at risk. These included one person who was initially transferred to a mental health unit before being moved back to detention, where his mental health deteriorated again until he was eventually released. 29% of those initially rejected for release by the Home Office were subsequently released on bail by the Tribunal (12 of 41 individuals), one person was released by the High Court and another was granted leave to remain. Those refused release by the Home Office,

³⁰ We no longer record risk of self-harm/suicide in the figures.

³¹ <https://detentionaction.org.uk/publications/submissions-to-the-second-shaw-review/>

but later released by the Tribunal or the Court, spent significant periods in detention between the Home Office refusal to release and release by the Tribunal or Court.

47. Given that the populations are so similar, it is difficult to see why the pattern we observed in respect of our clients detained at Harmondsworth, Colnbrook and The Verne IRCs between May and August 2017 would not be replicated at Brook House during the relevant period, such that detention was maintained for the vast majority of individuals identified by the Home Office as vulnerable under the Adults at Risk Policy.
48. Our evidence to the Shaw inquiry set out our analysis of the defects of the Adults at Risk policy which resulted in Home Office officials releasing so few of those they identified as adults at risk. In our view, the policy itself is flawed in providing too much weight to immigration factors and, in effect, requires detained people to provide their own independent evidence of their vulnerabilities. In addition, there was during the relevant period of this Inquiry a lack of knowledge and clarity around the Adults at Risk Policy and its implementation across the detention estate; little shared understanding about the way in which the policy works amongst staff in healthcare, welfare and other detention custody roles. In the October 2017 inspection of Harmondsworth IRC, Her Majesty's Chief Inspector of Prisons reported concerns that *"As we had found at other centres, Home Office and Care and Custody records did not align, and not all relevant staff knew which detainees were considered to be at risk. Staff had not been aware of a detainee on the highest risk level until we raised his case with them."*³²
49. In addition to this, once someone was identified as an Adult at Risk and a decision was made to maintain their detention, there was, and remains, no clear procedure to follow up or to monitor of that person, to ensure that their health does not deteriorate further and inform the Home Office if it does.

³² Report of an unannounced inspection of Harmondsworth IRC by HM Inspector of Prisons, 2 - 20 October 2017, P.14

50. Furthermore, there was a lack of monitoring by the Home Office, and an absence of published information, on how the Adult at Risk policy was operating in detention. As a minimum data should have been collected on the numbers of individuals considered under the Adults at Risk policy, the numbers found to be adults at risk, and the numbers who were released as a result.

Identification of adults at risk

51. The Adults at Risk Policy relied in the relevant period, and continues to rely, heavily upon IRCs providing information to enable the Home Office to identify those who are at risk of harm from detention. However, there is no transparent, straightforward process to provide information to the Home Office about an individual's vulnerability. The policy relies on mechanisms which were in the relevant period, and remain, flawed and these systems were, and continue to be, poorly implemented by detention, healthcare and Home Office staff.
52. The Detention Services Order 08/16 on the Management of Adults at Risk in Immigration Detention outlined then and now how detention centre staff should alert the Home Office to any vulnerability through the IS91RA Part C. However, there is no provision for the individual or their legal representative to be informed if a Part C has been completed, or of the Home Office's response. This opaqueness means that vulnerable people and their representatives are unable to use a Part C form or response to support requests for release. It also makes it impossible to assess the effectiveness of this mechanism in identifying and releasing vulnerable people.
53. The principal means for the Home Office to receive information about an individual's vulnerability was in the relevant period, and remains, the Rule 35 process. The shortcomings of this process are well documented in the Shaw reports and in the evidence Detention Action and other organisations provided to the Shaw reviews.

54. Of particular concern was the failure by medical practitioners to comply with Rule 35(2), the requirement to notify the manager of '*any detained person he suspects of having suicidal intentions.*' In our experience, medical practitioners did not report, under Rule 35(2), clients who were known to healthcare staff to have recently self-harmed and/or expressed suicidal thoughts unless the individual was a victim of torture. There also appeared to us to be under-reporting of detained people whose health was likely to be injuriously affected by continued detention or any conditions of detention (Rule 35(1)).
55. As a result, Rule 35 reports were rarely completed unless the individual was a victim of torture. Since Rule 35 is the main route to being considered an adult at risk, vulnerable people who are not victims of torture risk not being considered under the Adults at Risk policy.
56. In Detention Action's sample group monitored in the period May to August 2017, 94% (45 of 48 identified adults at risk) had Rule 35 reports, while only three people had triggered the policy without a Rule 35 report. Rule 35 reports had been completed for two individuals without triggering the policy. Of the 45 Rule 35 reports, 80% had a Rule 35(3) report because the medical practitioner had concerns the individual may have been a victim of torture. Only 20% (nine people) had a Rule 35(1) report because the medical practitioner felt their health was likely to be injuriously affected by continued detention. None had a Rule 35(2) report because of concerns about possible suicidal intentions. It appears unlikely that there are in reality so few vulnerable people in detention without suicidal ideation ; it is likely that other vulnerable people were being missed because medical practitioners were misapplying the Rule 35 process.
57. In addition, contrary to Rule 35 medical practitioners did not seem to update the Home Office using the Rule 35 procedure where the health of a person deteriorated during detention.

58. From the Shaw reports, and our discussions with other organisations assisting detained people, we consider it highly likely that the same failings in the Rule 35 system were occurring at Brook House in the relevant period and that these problems continue throughout the detention estate. It is difficult to see why it would be otherwise.

Identifying people who lack mental capacity

59. During the relevant period there was no process in IRCs for identifying individuals who lacked mental capacity to make decisions in relation to their detention, immigration case and other matters and no system for arranging access to independent advocates. This created an additional disadvantage for some of the most vulnerable people in detention, as they were unable to contact a solicitor and in some cases not even able to recognise that they needed legal advice. Detention Action staff have on several occasions been asked to act as litigation friends, in an individual capacity, to enable highly vulnerable people to bring legal challenges. On a case by case basis, we allow our staff to become litigation friends and currently our staff act as litigation friend for three clients, though none of these is currently detained.
60. During the relevant period Detention Action saw detained people who were severely mentally unwell and may have the lacked mental capacity to make decisions about their immigration situation, their detention and other important matters. We continue to see clients where we are seriously concerned about their mental capacity to make such decisions, people who in our view are so vulnerable they should never have been detained in an IRC in the first place. Detention Action found that there were in the relevant period, and continue to be, long delays before the authorities recognise that mental capacity is an issue and arrange an assessment of capacity, and often the question of capacity was, and is, not recognised at all. For those who appear to lack capacity there was, and is, inadequate support and we frequently see clients who encounter difficulties accessing healthcare, legal and other services. Where we think someone may lack mental capacity, but this has not

been recognised by the IRC, we try to refer the person to a solicitor explaining our concerns about mental capacity.

61. I should however add this. All of the above depends on someone coming to our attention in the first place. If someone lacks capacity that may not happen, whereupon they will be dependent on staff or someone else spotting the problem. I have never seen staff, clinical or detention, refer someone to a lawyer, or to us, because they thought they lacked capacity and someone external needed to take steps.

Healthcare

Healthcare at Brook House

62. Staff who were working at Detention Action during the relevant period have told me that it was their impression that the quality of healthcare at Brook House during the relevant period was worse than that provided at the Heathrow IRCs. This impression was gained from the descriptions clients (who were by then detained in a Heathrow IRC but had previously been detained at Brook House) gave our staff of their experiences of healthcare at Brook House, with particularly long waits to be seen by a doctor and a tendency to be given paracetamol for a wide range of medical complaints without this always seeming adequate.
63. In addition, Detention Action staff have told me that healthcare staff at Brook House during the relevant period were less open than healthcare staff at other IRCs to receiving and responding to enquiries from Detention Action staff. We regularly assist our clients to apply for accommodation and support under Section 4. Where a client is moved to another IRC we continue to assist with the section 4 application until the application is determined. Where a client was moved to Brook House our staff would, on occasion, need to contact Brook House healthcare for medical information relevant to the Section 4 application, for example about the medical need for a particular type of accommodation. Detention Action staff recall that

during the relevant period it was very difficult to get a response from healthcare at Brook House when enquiries were made.

Healthcare in other IRCs

64. I have described above the flaws in the Rule 35 process and its implementation by medical practitioners. During the relevant period there were many other problems associated with healthcare provision in the IRCs where our clients were detained. Clients frequently reported difficulties getting GP and nurse appointments, delays and difficulties obtaining Rule 35 assessments, delays with obtaining referrals for secondary care, delays getting hospital appointments and hospital appointments being cancelled (due, for example, to lack of escort staff or transport) and issues with the arranging of interpretation for these purposes. It is also worth noting that frequent transfer of detained people around the detention estate further disrupted and confused healthcare access, creating further delays to detained people accessing the treatment they needed. External appointments (often long sought) are lost. Information sharing does not take place. The concern which led to the referral is lost or forgotten. These problems were widespread in the relevant period and remain ongoing
65. In the relevant period (and since) Detention Action had difficulty in getting healthcare staff to respond to queries when advocating on behalf of clients. I understand that healthcare staff cannot divulge information without the consent of their patient but Detention Action did provide to healthcare clients' signed forms of consent to disclosure yet usually had no response. In our experience, and from the reports of our clients, clients were often not believed by healthcare staff, their medical complaints were not taken seriously, and there was an apparent over-prescribing of paracetamol.

Experience of Detained People - Drugs/alcohol

66. The environment of the IRCs was in the relevant period, and remains, a bleak one. Detained people face the sometimes imminent threat of removal from the UK, to countries where they often fear persecution, destitution and possibly death. The (in principle) indefinite nature of detention means that those detained do not have (in contrast to the majority held under criminal powers) a timescale by which events such as release, parole and appeals may be considered. Detained people may be left in limbo for months or even years, provided with little information about their situation and with no or limited access to legal advice. Many of those coming into detention have mental health problems and/or experiences of trauma or develop mental illness and/or experience further trauma whilst detained. Conditions vary between IRCs but those detained are often locked in their cells for significant portions of each 24 hour period, including overnight from around 9pm, and confined to their wings for significant portions of each day unable to access communal areas, facilities and activities. Most share prison-like cells with other detained people with little personal space or privacy. For all these reasons high levels of tension, anxiety, boredom, friction and substance abuse are common and unsurprising.
67. We cannot comment on the availability of drugs/alcohol at Brook House during the relevant period, as we do not have relevant information. However, our experience at other IRCs is that drugs and alcohol were and are very prevalent and freely available within the centres. On occasions clients have told us that they knew which IRC staff were bringing drugs into the centres. The availability of banned substances within IRCs is such that some IRC staff must play a role in bringing substances into the centres or at least in permitting dealing in banned substances to take place.
68. While we would of course not condone the use of banned / illegal substances, we would ask the Inquiry to consider the levels of desperation experienced in places of detention and the almost inevitable substance misuse which follows from this. The

Inquiry will also keep in mind the vulnerability of this cohort, to those who would seek to take advantage of them, for their own financial or other gain.

Management of those with disabilities

69. During the relevant period (and since) we have been concerned about the management of people detained who have physical and mental disabilities, learning disabilities and long-term illness. In our experience, these issues are frequently not identified promptly and when they are appropriate support and reasonable adjustments are rarely provided.

Management of those at risk of self-harm and suicide, food and fluid refusal, ACDT and segregation measures

70. In our experience, self-harm and suicidal ideation are common across the detention estate. It seems to us that good management of those at risk of self-harm and suicide requires that healthcare and detention staff have a sound training and understanding of mental illness, including an understanding that self-harm and suicidal ideation arise from desperation, and are rarely if ever malingering. It requires staff to undertake proper assessments of risk and needs and to provide sensitive support, investing time and employing good listening skills. In our experience IRCs' management of those at risk of self-harm and suicide fell well short of good practice during (and since) the relevant period. Detention and healthcare staff often display a culture of disbelief and instead of a receiving a careful listening approach detained people in this situation often face what seem almost to be punitive measures. Assessment, Care in Detention and Teamwork (ACDT) measures mean that people detained are often segregated and placed under close observation, which risks exacerbating their alienation and lack of privacy. This also applies in IRC responses to food and fluid refusal which is a form of self-harm and requires monitoring in a careful manner, particularly given the risk of dehydration and the potential for serious and long-term harm. As I have mentioned above, it is the view of Detention Action that there was (and continues to be) significant under-reporting under Rule 35 those who are suspected of having suicidal ideation.

Provision of Support and advice

71. Our experience of the provision of welfare support in IRCs is that welfare officers are generally doing a good job and show genuine concern for the wellbeing of those detained. The issue is that welfare services appear to be chronically under-resourced, with low number of welfare officers available at any one time and long queues to see them during the limited window when the welfare areas are open. This means that it is difficult for those detained to get the advice and help they need, particularly when the need is urgent. Our understanding is that the welfare areas have been closed for much of the pandemic; whilst the need for social-distancing is understandable, this is highly concerning as it will have further reduced the access vulnerable people detained have to the assistance they need.
72. Legal advice within IRCs was and is provided by the Detention Duty Advice scheme (DDA), with legal aid providers contracted to provide advice to people held at particular IRCs. There were widespread issues with the DDA during the relevant period and have since worsened, as the result of new contracts that began in September 2018. A large number of firms are now contracted to provide services within the IRCs on a rota basis. Our experience and extensive monitoring of the DDA since September 2018 has shown that many of these firms lack the qualifications and/or experience to provide appropriate advice, and there are widespread issues with access to advice.
73. Access to the internet in IRCs is limited, with smart phones prohibited and access to computers only allowed at certain times of the day. We are also aware of ongoing issues with websites being blocked, often with no reason clear. Sites blocked have, we understand, sometimes included those of NGOs supporting people in detention.

Lockdown and room conditions

74. The extent to which those detained are locked in their wings or rooms varies between IRCs but frequently seems excessive. For example, I believe that at present those held at Harmondsworth are locked in their rooms overnight, from 9.15pm until 8am. In most IRCs, people detained are in a room / cell with another person, with limited personal space. Our understanding is that toilets are usually in the same room, without separating doors.

Oversight

IMB

75. Detention Action cannot comment on the scrutiny of Brook House carried out by the IMB for Brook House in the relevant period, as we do not have sufficient information.
76. From our discussions with detained people, we find that most do not know about the IMB or, if they have heard of the IMB, they have heard from other detained people that the IMB are ineffective so there is no point complaining to them or they have complained to the IMB in the past but it did not help them so they see no point in complaining again. This was the case during the relevant period and remains so. This is a major concern as the IMB should be a first port of call, a day-to-day on-site presence that scrutinises the care of those detained and the welfare conditions within the IRCs.
77. The IMB is the only visible mechanism for complaints within the IRC and, as I indicated above, there is little publicity about them. Their reputation amongst detained people and NGOs supporting detained people – especially in the relevant period – was that the IMBs do very little real scrutiny and sit too closely to the centres' management to be independent. We are not aware of any significant improvement in the scrutiny which the IMBs exercise, at least not at the IRCs where we work. I think the IMB could do more to publicise its role, with more posters and

leaflets, with versions in the languages most spoken by detained people, and information handed out at induction. More effort should be made to engage with detained people, and respond to their complaints, in a way that demonstrates independence from those running the IRCs and from the Home Office. More critical scrutiny of the way IRCs are run and the treatment of detained people is required. Better engagement with the NGOs who work in the detention field, including the local IRC Visitor Groups and their umbrella organisation, AVID (the Association of Visitors to Immigration Detainees), would assist the IMBs to fulfil their functions and may help to improve their reputation amongst detained people and the NGOs.

HMIP

78. In contrast, we generally find the HMIP inspection teams to engage well with us and be responsive. For example, I have found inspectors happy to be flexible in speaking directly with us during their inspections, and keen to hear about individual clients of ours that we would recommend they speak with or think are particularly vulnerable. However, the downside is that HMIP are in each IRC for only a few days every few years and therefore only see a snapshot of what happens in the centres. This must limit the extent to which they can effectively scrutinise. More frequent inspections, perhaps annual inspections, may help to detect mistreatment and problematic issues in the IRCs. There would still remain the need for the frequent scrutiny which the IMBs should be undertaking.

Current Position

Brook House

79. We do not have sufficient information to comment on the situation at Brook House immediately prior to the outbreak of the COVID-19 pandemic. However, we are able to comment on the period since then.
80. We were in touch with 25 people held in Brook House during 2020, most of whom were detained for “Dublin” removal (to an EU member state, where it is said the

person had first entered the EU). Usually when we are contacted by people detained at Brook House we refer them on to GDWG. However, there was a period in 2020 when GDWG were so busy that we did do some casework support for people detained at Brook House. Most of these clients were self-harming and/or expressing thoughts of suicide and, in our view, should not have been detained. There were also some people detained for deportation before the start of the pandemic who were not released and these people were often very anxious about the conditions at Brook House and their safety due to COVID-19.

81. The Annual Report of Brook House IMB for 2020³³, published May 2021, noted, *“The combination of the compressed nature of the charter flight programme, with Brook House as its sole base for Dublin Convention flights, and the fundamental changes in the centre’s population and nationalities, their different vulnerabilities and their needs, put the centre’s systems, detainees and staff under great stress and raised some serious concerns for the Board. Most notably, there was a dramatic increase in levels of self-harm and suicidal ideation, deficiencies in the induction process and increased needs for legal support and Detention Centre Rule 35 assessments.”* The Board’s view was *“that circumstances in Brook House related to the Dublin Convention charter programme amounted to inhumane treatment of the whole detainee population by the Home Office in the latter months of 2020.”*
82. The Board’s findings and conclusions are consistent with our clients’ reported experiences.
83. We were pleased to find that Serco healthcare and welfare staff at Brook House were helpful when we contacted them for information about these clients.

³³ <https://s3-eu-west-2.amazonaws.com/imb-prod-storage-1ocod6bqky0vo/uploads/2021/05/Brook-House-AR-2020-for-circulation.pdf>

The current position with detention in IRCs generally

84. In the main the problems described above concerning the identification of vulnerable people, the prevalence of vulnerable people in IRCs, the issues around healthcare and the other problems associated with the care, safeguarding and management of detained people and the detention of some people for unacceptably long periods, all persist.
85. There has been a new Detention Services Order 04/2020 “Mental vulnerability and immigration detention: non-clinical guidance”³⁴ published July 2020 which gives instructions to non-clinical detention staff on how to identify individuals who may lack capacity; have a disability arising from mental impairment; or have a mental health condition. However, we continue to see clients in detention who appear to have very serious mental illness; a mental disability or to lack mental capacity. The Royal College of Psychiatrists published a Position Statement in April 2021³⁵ expressing the view that *people with mental disorders should only be subjected to immigration detention in very exceptional circumstances.* They commented that *‘Despite improvements, we remain concerned about the limited nature and extent of the mental health care that can be provided in the immigration detention setting.’* And *‘it is crucial that clinical and other staff working in detention centres are given adequate training and support and that they are offered regular supervision. There should be regular training for all Home Office and healthcare staff on early indicators of mental health conditions and the circumstances in which capacity assessments should be triggered.’*

³⁴

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/90710/7/DSO_04_2020_Mental_vulnerability_and_immigration_detention_-_non_clinical_guidance.pdf

³⁵ 'Detention of people with mental disorders in immigration removal centres (IRCs)' PS02/21
https://www.rcpsych.ac.uk/docs/default-source/improving-care/better-mh-policy/position-statements/position-statement-ps02-21---detention-of-people-with-mental-disorders-in-immigration-removal-centres---2021.pdf?sfvrsn=58f7a29e_4#:~:text=It%20is%20the%20v

86. We have ongoing concerns regarding the use of force within IRCs and in particular when attempted removals take place. In 2019, we started monitoring incidents of clients reporting use of force during attempted removals and have recorded a number of cases where our clients told us that physical measures taken during their attempted removal (measures which often start inside the IRCs), resulted in bruises, cuts, or fractures, with x-rays being required afterwards in some cases to determine the extent of physical injury. Complaints were made by some of these clients, sometimes with assistance from their solicitors or other agencies, but as we subsequently lost touch with the clients it is difficult to comment on the outcomes. However, it is notable that of the clients reporting these incidents, some had been identified by the Home Office as adults at risk.
87. The factors I have described above which impede detained people from making complaints about mistreatment or other issues affecting them in detention remain.
88. I cannot comment on whether oversight mechanisms for Brook House have improved. However, we welcome the IMB's recently published report for Brook House for 2020 which took a more critical approach and appears to indicate that the Brook House IMB is taking a more robust approach to its role.
89. I have been asked about Detention Action's current relationship with Serco, the Home Office and the IMB. Our relationship with Mitie who run the Heathrow IRCs is reasonable, though we are currently experiencing frustrations with ongoing delays in being allowed to re-start our drop-in workshops at the IRCs as COVID-19 restrictions ease. We have only limited contact with the Home Office staff based at the Heathrow IRCs. We continue to have only limited contact with the IMB for the Heathrow IRCs.

Recommendations

90. We have been asked by the Inquiry to set out any suggested recommendations which we think might help to prevent a recurrence of the mistreatment identified on Panorama. In response Detention Action makes the following recommendations:

- a) It is important to recognise the particular impact that indefinite detention has on people. It makes immigration detention qualitatively different from any other detention experience. It increases the vulnerability of detained people and when met by an uncaring response from detention staff it engenders a culture in which abuse is more likely to happen. This would be ameliorated by a strict 28-day time limit on detention, with people held for a maximum of 96 hours before their detention is reviewed by tribunal, with detention only then extended if the person's removal or deportation from the UK in the following 14 days is certain. These measures would significantly reduce the numbers of people detained, remove the need for large detention facilities such as Brook House, and reduce the intense strain and mental damage people are placed under when detained for weeks, months or years, often with no purpose when by far the majority of detained people are released from detention, not removed from the UK. In 2020 only 26% of those leaving detention were 'returned'.³⁶
- b) Conditions within IRCs and Short-Term Holding Facilities (STHFs) need to significantly improve.
- c) If immigration detention is still to be provided by private companies, there should be additional safeguards and monitoring arrangements embedded in the contracts for companies to run the IRCs, and the processes required of the Home Office need to be made more robust to ensure that monitoring is

³⁶ <https://www.gov.uk/government/statistics/immigration-statistics-year-ending-december-2020/how-many-people-are-detained-or-returned>

effective. There are a number of issues that flow from the fragmentation of provision, and the management structure and culture which comes from these arrangements and which, in my view, are impossible to put to one side. They require additional safeguards.

- d) A review and overhaul of the policy on the detention of vulnerable people, including the processes of how vulnerable people are identified before detention, on admission to an IRC and during detention, and to ensure that those identified as vulnerable are detained in only very exceptional circumstances.
- e) As I have mentioned above, the IMBs could do more to publicise their role; make more effort to engage with detained people, and respond to their complaints, in a way that demonstrates independence from those running the IRCs and from the Home Office; apply more critical scrutiny of the way IRCs are run and the treatment of detained people and better engage with the NGOs who work in the detention field, including the local IRC Visitor Groups and their umbrella organisation, AVID.
- f) We endorse the recommendations of Liberty in relation to complaints set out at Annex D to the ICIBI report of July 2020 mentioned above, which include the appointment of an independent complaints officer at each IRC to facilitate complaints, ensure lessons are learnt and change is implemented; shorter timeframes for investigating and responding to complaints and doing more to ensure that complaints result in changes so that individuals can have more confidence in the complaints system.

<u>Statement of Truth</u>
I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or

Witness Name: James Wilson
Statement No: 1
Exhibits:

<p>causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.</p> <p>I am content for this witness statement to form part of the evidence before the Brook House Inquiry and to be published on the Inquiry's website.</p>	
Name	James Wilson
Signature	<div style="border: 1px dashed black; padding: 2px;">Signature</div>
Date	09/02/2022

Witness Name: James Wilson
 Statement No: 1
 Exhibits: