

BROOK HOUSE INQUIRY

First Witness Statement of Philip Riley

I provide this statement as the Home Office's Corporate Witness and in response to a Rule 9 request of 16 July 2021 and follow up questions.

I, Philip Riley, Director of Detention and Escorting Services, Immigration Enforcement, Home Office, 3rd Floor, Apollo House, 36 Wellesley Road, Croydon, Surrey, CR9 3RR will say as follows: -

Introduction

1. I am a Senior Civil Servant, currently employed by the Home Office. I have been employed at this grade in the role of Director, Detention and Escorting Services (DES) since September 2018, and have worked as a Civil Servant since 1997. I am duly authorised to make this statement on behalf of the Home Office. Insofar as the contents of this statement are within my own personal knowledge, they are true, otherwise they are true to the best of my knowledge, information and belief.
2. The Home Office has provided the Inquiry with organograms and lists which show both how my role fits in with the broader Home Office hierarchy and a list of staff working in Brook House at the time. Detention and Escorting Services (formerly known simply as 'Detention Services') is the directorate of the Home Office with operational oversight of the immigration removal estate, and for the transfer ('escort') of detained people around the estate and on removal from the United Kingdom.
3. The Inquiry will be aware that, at the time of the broadcast of the Panorama documentary 'Britain's Immigration Secrets', I was not employed at the Home Office. I am making this statement on behalf of the Home Office because my seniority and areas of responsibility put me in the best position to assist the Inquiry in these matters. In making this statement, I have referred where necessary to the documentary itself,

and to a suite of relevant documentation prepared for me by Government Legal Department (much of which I was already familiar with).

4. To put matters into the appropriate context, it is important to remember that immigration removal centres in England and Scotland are operated, managed and maintained by commercial suppliers on the Home Office's behalf. A contractual agreement sets out the standards that must be met by that supplier in operating the estate, with financial penalties liable to be paid where those standards are not reached. At the time of the broadcast, the Home Office had a relatively small team of staff working on site to ensure G4S's compliance with the contract for the operation of Brook House. This arrangement, which is consistent with the running of other IRCs, continues in broadly the same manner to this day, albeit bolstered by the impact of a number of reforms to detention that have been implemented in the years since then, including a significant uplift in onsite Home Office staff resource. In addressing the points that the Inquiry has asked me to cover, I will draw attention to further reforms in this statement.
5. Re-watching the Panorama documentary, I share the shock felt by my Home Office colleagues, predecessors and Ministers at the treatment of people detained at Brook House by some G4S staff. The Home Office was clear at the time of the broadcast that this treatment was completely unacceptable, and so it remains today. I welcome this opportunity to assist the Inquiry and will be happy to expand on any of these areas in questioning if needed. I am confident that our practices in the field of immigration detention have evolved significantly since 2017 and will continue to do so. The events at Brook House, whilst in no way indicative of the broader treatment of people detained under immigration powers at that time, nonetheless acted as a spur for the ambitious programme of reform that we have undertaken over recent years. These reforms reflect four key priorities: minimising the use of detention; strengthening decision-making, and safeguards for the vulnerable; improving transparency, and ensuring that everyone is treated with dignity in an estate fit for purpose. I hope this statement goes some way to assuring the Inquiry, other core participants, and the wider public of the progress we have made at Brook House and across our estate since that time.

6. I am not able to offer an explanation as to the behaviour of some G4S staff in Panorama. To do so would be to speculate. It is only right that the individuals in question be asked to account for their behaviour and be given the opportunity to respond. I remain clear in my opinion that the misconduct in question was perpetrated by a small minority of staff who, according to the testimony of current and former G4S staff, were not reflective of the whole workforce or the culture of the company. Several of these people were, quite rightly, dismissed by G4S. I commend the organisation for taking swift action against those individuals.
7. Even with the benefit of hindsight, I do not consider that there had been any indication that the abuses in question were in any way inevitable. I am reminded of the Brook House IMB's annual report for 2017, in which the then Chair wrote that the Board had seen and heard nothing that might have alerted them to the behaviour demonstrated by those G4S employees in the documentary. The absence of obvious, visible warning signs may also account for Home Office staff not reporting any apparent abuses during the relevant period. I believe that had any Home Office staff seen anything of concern during the relevant period, they would have reported it. As a senior leader in the organisation for three years, who spends much of his time inside our IRCs, I am very confident that, were Home Office officials to become aware of any recurrence of this kind of mistreatment, it would not go unchallenged.
8. Whilst the ill treatment of detainees was perpetrated by G4S (and not Home Office) staff, I accept that there may be legitimate questions asked of a system that allows individuals like these to have been allowed to pass through the Home Office's certification process and commence work in an IRC. There were clearly organisational failings on the part of the Home Office, mostly in the areas of performance management and assurance, which subsequent reports into our oversight of Brook House have rightly highlighted. I imagine that the Inquiry is likely to hear evidence of a combination of factors that created the very challenging operational environment of Brook House at that time (including a high proportion of particularly challenging time-served foreign national offenders, and the proliferation of dangerous psychoactive substances). Nonetheless, whilst I accept that the environment at this time was a very challenging one for staff, I do not accept that there was any excuse for some of the appalling behaviour perpetrated by certain individuals in the documentary.

Panorama: Undercover: Britain's Immigration Secrets

9. It is important to understand that our commercial relationship with G4S meant that the Home Office was not itself able to take disciplinary action against the individual detainee custody officers (DCOs) and managers (DCMs) and healthcare staff whose poor conduct was broadcast in the Panorama footage. That responsibility by definition fell to G4S as the employer. That limitation notwithstanding, the Home Office acted swiftly to take what action it could. Based on a review of the footage, information from the BBC and correspondence with G4S, officials were able to identify the staff who were implicated in the events shown in Panorama. Nine staff had their DCO certification (a statutory requirement for working in our custodial environment) suspended before the documentary was even broadcast. Three further G4S employees would have their certification suspended following the conclusion of G4S's own internal investigations. No person can work as a DCO without Home Office certification.

10. Separately, in November 2017 the Head of Detention Operations commissioned the Home Office's independent Professional Standards Unit (PSU) to investigate complaints of serious misconduct made by ten individuals detained at Brook House against members of staff featured in the documentary¹. These complaints were made during October, after the broadcast of the documentary, in litigation against the Secretary of State's response to the broadcast. Much of this litigation challenged an alleged failure of the then Secretary of State to instigate an Article 3 ECHR compliant inquiry into the Panorama abuses. In each case, it was judged that the allegations made could, if substantiated, amount to serious misconduct. In line with Home Office published guidance, the serious misconduct allegations were referred to PSU for investigation. I understand the then-head of the PSU has been asked to give evidence to the Inquiry and will be able to assist the Inquiry on the form, methodology and outcome of these investigations.

¹ Of the ten referred, PSU accepted seven for full investigation, I believe because they did not all in fact ultimately meet the relevant criteria.

11. As the Inquiry will by now know, ten members of staff whose behaviour was investigated by were ultimately dismissed by G4S.
12. Additionally, the Home Office co-operated fully with Sussex police in the criminal investigation into G4S staff, promptly disclosing all material of potential relevance to its investigation. I understand that the police and Crown Prosecution Service ultimately declined to bring criminal charges; I look forward to hearing more on the decision not to prosecute as the Inquiry progresses.

The role of Home Office staff

13. The Home Office has disclosed to the Inquiry organograms and lists of staff who were on-site at Brook House in 2017, with an indication of the level of day to day contact those members of staff had with G4S at that time [HOM0332000]. It is reasonable to say that most of those on-site staff would have had some degree of direct interaction with their rough ‘equivalent’ at G4S. This speaks to the collaborative approach taken by the department and its commercial suppliers in operational environments such as an IRC. The job of Home Office (DES) officials was not, however, to supervise G4S employees. Each organisation was responsible for its own staff.
14. Home Office staff would have visited areas in which those detained were present on a regular basis, although the frequency of the visits would have varied according to operational demand. For example, staff regularly visited residential units to empty complaints boxes² and the Care and Separation Unit (CSU) to attend Rule 40 reviews, whilst visits to the visits hall (for detainee consultative meetings) and the interview rooms would have been less frequent. Visits to the CSU would have been recorded on the relevant paperwork (Rule 40/42)³. Visits to the residential units when collecting complaints would not have been.

² The relevant Detention Service Order (‘Handling of Complaints’) required that complaints boxes be emptied “at least once a day, seven days a week”. In practice during the relevant period, the boxes were typically emptied whilst detainees were in their rooms.

³ The relevant Detention Service Order does not proscribe the frequency with which Home Office staff should attend Rule 40 review, only that a DES manager (on-site or on-call) should form part of the multi-disciplinary team.

15. We recognise now that the number of Home Office staff deployed to Brook House was insufficient to manage the competing demands of oversight of resident welfare, supporting the removals process and ensuring that G4S met contract obligations. We have steadily increased Home Office staff resources from the “one executive officer” referred to in the NAO memorandum to a total of 16 staff at executive officer level or higher in 2021. The single biggest expansion in staff was in the roll-out of Detention Engagement Teams (first trialled at Gatwick in 2017). The number of Executive Officer staff increased gradually at Brook House from this date, with some inevitable fluctuation to reflect attrition, and because of certain recruitment processes (e.g. security clearances and release dates of incoming staff). For these reasons, there was no ‘overnight’ expansion at Brook House. We have been clearer in role allocation so that one team is responsible for oversight of the operating contract and the delivery by the custodial supplier.
16. In a previously submitted explanation [HOM0331998], we have explained, for the Inquiry’s benefit, the Home Office’s whistleblowing procedures.⁴ This procedure is publicised in Detention Services Order DSO 03/2020, Whistleblowing – The Public Interest Disclosure Act 1998 (c.23), on the Home Office’s intranet where it is available for all staff and published on gov.uk. Wider guidance on whistleblowing for employees is available at [gov.uk](https://www.gov.uk). I am confident that, had any Home Office officials onsite become aware of serious misconduct on the part of G4S colleagues, they would have reported it. I must infer, given that no such abuse was reported, that individual staff at Brook House were oblivious to the conduct of certain G4S employees.
17. On reflection, it is clear that there were a number of issues with the Home Office’s contract with G4S, with the effect that the Home Office did not have sufficient leverage to hold G4S to account. These, and other failings (such as the insufficient resources deployed to monitor delivery of the contract by G4S, and its inability to allow the Home Office to penalise G4S for the abuse of detainees) were highlighted by the National Audit Office in its report of the Home Office’s management of its contract with G4S to run Brook House. I accept the observations and findings made by the NAO, as indeed

⁴ For whistleblowing procedures, please refer to [HOM0331987] (Whistleblowing guidance for civil servants), [HOM0331989] (Role of a Nominated Officer), and [HOM0331991] (Whistleblowing policy statement).

the department did at the time of its publication. This report, and the Verita report commissioned by G4S, helped shape the programme of improvements and reforms that the Home Office made as part of its response to Panorama (some of which had already been implemented by the time of the NAO memorandum). I will reflect on the programme of work to improve Brook House later in this statement.

18. I do not believe, and have seen no evidence to suggest, that individual members of Home Office staff were at fault, indirectly or otherwise, for the abuses in question. I would concur with the findings of the NAO and others, that the department's failings could better be described as shortcomings of oversight and assurance – failings I firmly believe we have now successfully mitigated.

Training of G4S staff

19. Based on the evidence I have seen, I have no reason to believe that G4S failed to submit its plans for staff training to the Home Office for approval during the relevant period. I am not aware of any substantial concerns expressed on behalf of the Home Office in relation to G4S's training of its staff.
20. It was not unusual for Home Office staff to be present during G4S training sessions, whether at Brook House or other IRCs. Officials would attend on an ad-hoc basis; for example, when it was felt that a Home Office perspective would be conducive to the learning goals. Officials attended the G4S Initial Training Courses (ITCs) between April 2016 and August 2017 to deliver a session on the role of the Home Office. Home Office staff also attended Personal Safety Training and Assessment Care in Detention Teamwork (ACDT) training delivered by G4S, on these occasions as participants. I am unaware of any concerns having been raised by Home Office staff as a result of attending either the ITCs, PST or ACDT training.

Contractual issues

21. Looking at the monthly performance reports submitted by G4S to the Home Office in the relevant period, it is clear that most of the reported failings were isolated in nature; that is, failures of the service provided to individual detained people. Some – such as a

failure in G4S's cleaning of the site in May 2017 appear more widespread and were rightly penalised accordingly. Overall, it is difficult to draw meaningful conclusions from these failings, for two reasons: 1) an ostensibly 'lesser' infraction (such as a particular facility being temporarily unavailable) might nonetheless have had a deleterious impact on the welfare of an individual; 2) the contract which codified the regime of standards was itself found to be inadequate in a number of key areas (cf NAO memorandum).

22. The NAO report made reference to eight incidents for which the Home Office fined G4S a total of £2,768. Having looked into commercial correspondence from the relevant period, I can confirm that the incidents for which penalties were levied included: failure to supply an incident report (x3); failure to report full details of an incident; and four substantiated complaints (each of which connect in some way to a use of force by a DCO against a detained individual). I am unable to assist the inquiry as to why G4S did not report all of these failings, and I look forward to hearing from G4S on this question in its submissions to the inquiry.

23. I acknowledge that the decision to extend the existing contract with G4S for a period of two years may have seemed questionable at the time, given that Panorama had been broadcast barely six months previously. This short extension was to allow officials time to reflect on the findings of Stephen Shaw's two reviews of vulnerability in detention, and the Verita report. It was only right that these important reports be given full consideration, and that future contract specification be carefully designed in accordance. A 'knee-jerk' reaction to change supplier would not, to my mind, have been in the best interests of the welfare of those in detention (which is the single biggest driver in the new contract) and would have risked destabilising the Centre at a time where positive stability was most required.

24. The NAO report into the Brook House contract rightly highlighted areas in which the contract fell short of the required standards. Many of these failings had already been identified, and remedial action begun, at the time of the report's publication (July 2019). I would submit that a principal failing of the contract was its inflexibility in not allowing the Home Office to categorise the abuse perpetrated by G4S staff in Panorama as a contract failure. There was perhaps also, on reflection, insufficient focus on detainee

welfare. In response, we ensured that the new contract for the Gatwick estate built on the hard lessons learned during this time. When compared to the contract with G4S, the current contract [HOM0331997] demands a number of tangible improvements, which include:

- a new staffing model, developed in partnership with the Prison Service, that delivers more staff supporting detainees, making the Gatwick IRCs safer and more secure;
- major improvements in staff's professional skills, reducing attrition and strengthening morale;
- a two hour reduction in the time individuals are locked in their rooms overnight;
- more welfare staff, making more systematic assessments of detained individuals on arrival;
- educational and recreational activities for those in detention seven days a week;
- assurance on other important safeguarding issues, such as whistleblowing procedures; and
- a clearer and firmer approach to sanctions for poor performance, addressing the flaws in this respect in the previous contract.

25. It also includes requirements for the reduction of violence, substance misuse and drug supply. Overall, the new contract (which takes forward the response to the findings of Stephen Shaw's two reviews of welfare in detention, and the lessons learned following the Panorama broadcast) has a much greater focus on the safety and welfare of those detained. Several features of the new contract, including some of those that I have identified above, were specifically included to improve detainee welfare (such as more staff supporting detainees, and more welfare staff).

26. The new contract will provide greater clarity on Home Office priorities for the new supplier, with a reduction from 139 to 27 Key Performance Indicators (KPIs) more clearly focussed on outcomes. Most importantly, we now have performance measures that focus on staff culture, misconduct and the reporting of serious incidents alongside a means of addressing low-level failings which have not been resolved within a designated period.

27. The reforms put in place at Brook House, including those stipulated by the new contract, should be considered in the wider context of the Home Office's strategic reforms of immigration detention in the five years since the publication of Stephen Shaw's first review. Detention itself is used sparingly, and as a last resort. The immigration removal estate is around 50% smaller than it was in 2015. There are now more Home Office staff in IRCs, including teams of staff whose specific remit is to progress the immigration cases of people who are detained. We have also introduced a Detention Gatekeeper to assess the suitability of all those referred for detention, and case progression panels to consider whether continuing detention is appropriate.
28. We will continue to monitor the effectiveness of all these measures, and welcome the external scrutiny provided by HM Inspectorate of Prisons (HMIP), the Independent Chief Inspector of Borders and Immigration and the local Independent Monitoring Board (IMB).

Staffing levels

29. The Home Office's monitoring of staffing levels drew on a number of mechanisms, but principally relied on daily self-reporting by G4S of its staffing levels (as mandated by the contract). Additionally, if Home Office staff believed, based on their own observations as they moved around the centre, that staffing levels were not sufficient at any given time, I would expect them to have raised these concerns with either Home Office managers or their G4S counterparts. I am aware of an occasion on which the DES Head of Operations reported an allegation of insufficient staffing levels to G4S's Managing Director of Immigration Services, following an anonymous call to HMIP. I am also aware that in both June 2017 and July 2017, colleagues in Home Office Commercial directorate penalised G4S for its staffing levels, which at times had not met contractual minimums.
30. In any organisation, there will inevitably be a degree of staff turnover. I am unaware of any member of Home Office staff expressing any concern about turnover of G4S staff during the given period. Fundamentally, I would consider this to be a matter for G4S to

monitor, taking appropriate action when needed. Indeed, the minutes from a contract review meeting in April 2017 suggest that G4S were working on a strategy to recruit and retain staff. The minutes suggest that G4S's attrition rate was around six (leavers) a month during this time.

31. With the benefit of hindsight, it is clear that the contract in place with G4S did not give the Home Office sufficient 'leverage' to hold it to account for delivering services in strict accordance with the contract. To the extent that G4S may have encountered staffing issues during the relevant period, it is feasible that those weaknesses may have exacerbated the situation. The current contract at Brook House includes an entirely new staffing model, developed in partnership with the Prison Service, focussing on the safety and security of the centre. It also has a clearer and firmer approach to sanctions for poor performance, addressing flaws in the G4S contract.

Disciplinary action not related to *Panorama*

32. The utterly unacceptable treatment of detained individuals depicted in *Panorama* was perpetrated by G4S, rather than Home Office, staff. For that reason, there were limits to the individual disciplinary action that the Home Office could take. Quite rightly, it was for G4S to sanction their staff, as it would have been for the Home Office to sanction any of its staff, had they been suspected of engaging in such behaviour.
33. The Inquiry will know that the principal "sanction" available to the Home Office in respect of supplier IRC staff was (and remains) to review an individual DCO's certification to work in an IRC. Without Home Office certification, a person cannot work as a detainee custody officer. The process for suspension and revocation of a certificate are explained in full in a published Detention Services Order⁵ [HOM0331984]. In the immediate aftermath of *Panorama*, swift action was taken to identify the apparent perpetrators and review their certification. I refer to the action taken elsewhere in this statement.

⁵ <https://www.gov.uk/government/publications/detainee-custody-officer-and-detainee-custody-officer-escort-certification>

34. The Detention and Escorting Services Certification Team at the Home Office promptly suspended the certification of the nine DCOs who had been immediately suspended by G4S. The certification team would later review the cases of seven individuals who were sanctioned, but not dismissed, by G4S. Of the three who had received written warnings, two resigned before the review could be undertaken but their certification records have been flagged for future reference on both the Departmental Security Unit database and the certification DOCD database. This means that their involvement in the events of 2017 will be visible to the Home Office should they seek employment at an IRC through another commercial provider. In the cases of the other person given a written warning, and the other given a verbal warning, the Certification Team concluded that the cases against them were not sufficiently serious to revoke certification. In the cases of the three officers who were given final written warnings, the Certification Team considered their behaviour to have been inconsistent with the standards expected of a DCO, and their certifications were suspended.
35. Our records indicate that five of the G4S members of staff who appeared in Panorama had been the subject of serious complaints during the relevant period, for alleged conduct that was unconnected to the Panorama allegations. All five were investigated by the Professional Standards Unit.

Complaints/Whistleblowing

36. The Home Office has previously (July 2020) disclosed to the Inquiry a written explanation on the published complaints process [HOM0331998]⁶. In summary, the procedure for complaints is outlined in the published Detention Services Order (DSO) 03/2015, which applies to complaints about any staff in IRCs, pre-departure accommodation and short-term holding facilities, as well as escorting staff. It covers “any expression of dissatisfaction about the service we provide, or about the professional conduct of our staff and contractors”.

⁶ For complaints procedures, please refer to [HOM0331985] (Complaints guidance in force from Feb 2020) and [HOM0331986] (Complaints guidance in force pre-Feb 2020).

37. The DSO includes a hyperlink to further guidance on the management of complaints in the Home Office, including Immigration Enforcement. DSO 03/2020, Whistleblowing – The Public Interest Disclosure Act 1998 (c.23), also outlines how concerns of any wrongdoing – intentional or unintentional – should be reported and addressed at the earliest opportunity.
38. Following on from a PSU investigation dated 15 February 2018 [CJS005988] five recommendations were made relating to (1) the process for handling complaints, and (2) a helpline for G4S staff to report mistreatment [CJS005988_0017-18]; these had all been implemented by October 2018. G4S appointed a full-time complaints clerk to collate, allocate and track all complaints that are submitted in the centre, providing regular updates to the centre Director. The report is reviewed weekly by the centre Senior Management team and is available for scrutiny by the Home Office. The complaints clerk also liaises directly with PSU to provide updates and any other assistance required. All recommendations were subsequently accepted as complete/closed by PSU.

Use of Force

39. The Home Office has previously disclosed to the Inquiry a written explanation of the role of the Security and Use of Force team with regard to Brook House in 2017 (served 30 July 2020, [HOM0331998])⁷. This explanation describes the processes at the time for monitoring the use of force, and also the reforms that have been made to monitoring the use of force since then, to make the process less re-active and more pro-active.
40. Clearly, the way that force was planned, used and reported by some G4S staff (as broadcast in Panorama) was unacceptable, and was entirely incompatible with published guidance. However, I am satisfied that these uses of force did not reflect the general picture of use of force at the time. In reaching that conclusion, I am reminded of the generally positive findings of HMIP in this area in its 2016 report. Similarly, while I am aware that there was an increase in the use of force in 2017, I have referred to the IMB on its report for this period, which puts this increase in helpful context.

⁷ See [HOM0331995] (Action Plan).

41. The IMB's annual report (2017) for Brook House notes a "dramatic" increase in the use of force during the reporting period. It is important to consider this statement in the appropriate context (much of which is offered by the IMB in its report). During this period, the population of Brook House presented particular operational challenges, including a higher proportion of time-served foreign national offenders (some of whom presented a higher level of risk to staff, other people in detention and themselves). As the report itself acknowledges, a large proportion of uses of force related to an identifiable cohort of detained individuals. The report also acknowledges the increased scrutiny of uses of force since Panorama and accepts that the safety of those in detention was a "paramount aim for the centre." Overall, I would not characterise the increased instances of control and restraint during this time as statistically significant, or as reflecting a worsening of staff/detained individuals' relations. There will, however, always be room to improve the recording of monitoring and use of force within IRCs. The use of body worn cameras will support stronger oversight and increase accountability. The Home Office accepts that management information at the time was in need of improvement. It is pleasing to see that the most recent IMB report for Brook House praised the monthly use of force governance meetings run by the new supplier, commenting on the "open, transparent and constructive manner" in which they are run.

42. In a written explanation previously submitted to the Inquiry, we have set out the improvements made by the Home Office in this area, which include the establishment of a Security and Use of Force team (where, prior to Panorama, these functions had been carried out by one official in addition to his other duties). A weekly meeting is held with the supplier, reviewing (amongst other things) numbers of detainees in care and separation units and the number of use of force reports.

Use of Rule 40 and Rule 42

43. As a general point, Home Office guidance⁸ is clear that the separation of detained individuals from the wider population should be used only as a measure of last resort;

⁸ Detention Services Order 02/2017, 'Removal from Association (Detention Centre Rule 40) and Temporary Confinement (Detention Centre Rule 42)

when all other measures have been assessed and considered inappropriate as an effective response to the safety or security risk posed by an individual. The number of violent incidents must be monitored by the service provider to ensure the safety and security of all those in detention and staff.

44. G4S were required to follow Home Office guidance on the use of separation, which includes guidance on the Home Office's monitoring role. The published guidance sets out the circumstances for use of separation, as well as how usage should be documented and monitored, including by Home Office staff on site. During the relevant period (October 2017) the DES Head of Operations reminded centre managers at each IRC of the requirement to compile monthly data on Rule 40 and 42, as required by the relevant DSO. The DES Audit and Assurance Team also conducted a review of the Rule 40/42 process in February 2018. This review found that processes required by the DSO were not always being followed across the detention estate; the Head of Operations again wrote to the supplier centre managers, and Home Office delivery managers, in April 2018, reminding them of their responsibilities in this regard.
45. I have seen correspondence from as recently as July 2019, in which colleagues from DES and Home Office Commercial decided to penalise G4S for basic, fundamental failings in the operation of rule 40/42 (including the accurate completion of records).
46. In its 2017 report, the IMB was largely positive in its commentary on the use of Rule 40 and 42, finding "no evidence that this sanction has been used indiscriminately or inappropriately; in fact, just the reverse." Every decision to place an individual in Rule 40 or 42 is made in accordance with the guidance and based on the individual circumstances of that individual. In the absence of significant evidence to the contrary, I would agree with the IMB's assessment.
47. Whilst the use of Rule 40 in 2018 did reduce compared to 2017, I do not consider this to be due to any particular identifiable trend or change of approach, but rather a result of natural statistical variation in circumstances where each occasion is assessed on its unique factors. Simply put, there were fewer occasions in 2018 in which Rule 40 was judged appropriate.

Vulnerability of detainees

48. The Home Office adults at risk in immigration detention policy came into force in 2016, when Detention Services Order 08/2016 was issued in support of this new policy. The policy recognises the dynamic nature of vulnerability. It strengthens the existing presumption against the detention of those who are particularly vulnerable to harm in detention. It was part of the Government's response to Stephen Shaw's first review of the welfare of vulnerable people in immigration detention. The policy was part of a wider programme of work which aimed to improve the way in which vulnerable people in detention are managed.
49. The policy requires a case-by-case assessment of the appropriateness of detention for each individual, based on the nature and evidence of vulnerability available in their particular case.
50. The policy balances at-risk considerations against immigration factors. If an individual is identified as being at risk they will be regarded as being at a certain evidential level, depending on the evidence provided in their particular case. They will be detained only when the immigration factors outweigh that level of evidence-based risk. I would refer the Inquiry to the published policy itself for more on its operation and its application to individuals in detention.
51. I would defer to the assessment of experts in their assessment of the Adults at Risk (AAR) policy's effectiveness. Any assessment of its effectiveness at Brook House during the relevant period will, to some degree, be stymied by the benefit of hindsight, and would need to be cognisant that the policy was in its infancy during that time. I note that the IMB's report for 2017 offered a balanced view on the nascent policy. More recently, in his second report on immigration detention, Stephen Shaw acknowledged the genuine focus on vulnerability that the AAR policy had fostered and commented that it would be "folly" to abandon it. Clearly, there may be room for improvement in the operation of the Adults at Risk policy, including at Brook House. The operation of Adults at Risk is subject to annual inspection by the Independent Chief Inspector of Borders and Immigration (ICIBI). In responding to the Inspector's first review, the then

Director General of Immigration Enforcement acknowledged concerns that existed in such areas as clarity of roles, quality of discussion within case progression panels, and overall quality of decision making. An action plan was put in place to address those issues. I look forward to reading the ICIBI's second review, which has now been published.

52. Overall, I consider that the operation of Adults at Risk at Brook House during the relevant period, including areas where improvement was needed, would have been consistent with its application across the wider detention estate during this time.
53. Reviewing the Panorama broadcast again, I do not find any evidence that the operation of Rule 35 of the Detention Centre Rules was systemically ineffective during the relevant period at Brook House; however, there may have been individual applications of Rule 35 that fell short of the required standards, as had previously been highlighted by HMIP in its 2017 inspection report. In response to that inspection report, the Home Office published in March 2017 a service improvement plan, which clarified the requirements of doctors when assessing detainees with mental health issues including post-traumatic stress disorder⁹. The Home Office is committed to continually reviewing its policies and practices to ensure the safe and humane treatment of people in detention. In the time since September 2017, the Home Office has taken a number of steps to improve the operation of the Rule 35 regime across all of immigration detention, including the establishment in September 2019 of a single independent Rule 35 team within Immigration Enforcement. The establishment of this team ensures that all reports raised under Rule 35 are now considered independently from detained casework commands, with decisions reached based on the specific circumstances of the individual in detention. Following due consideration, a decision will be made and relayed to the individual, the relevant IRC, and the casework team as to whether or not continuing detention remains appropriate. Following the publication of Stephen Shaw's second review of immigration detention, the then Home Secretary announced that the Government would "look again at how we can improve the consideration of rule 35 reports on possible cases of torture, while avoiding abuse of these processes". Whilst I

⁹ <https://www.justiceinspectorates.gov.uk/hmiprisons/wp-content/uploads/sites/4/2017/03/Brook-House-IRC-Service-Improvement-Plan.pdf>

understand that this remains the intention, wider work to reform the Detention Centre Rules 2001 (which include the rule 35 process) is currently paused following the launch of wider reforms to the immigration system (including the New Plan for Immigration, published in March 2021). The 2019 Annual Report of the IMB expressed concern about (i) the low percentage of detainees who were released from detention following the completion of Rule 35 reports and (ii) that some torture victims remained in detention for a significant period after their claim had been accepted. The Home Office has no reason to doubt the IMB's statistical analysis, albeit I do not know the individual circumstances of the cases its members looked at. As set out by Stephen Shaw in his review, we recognise that the Rule 35 process could be enhanced, and we have addressed this by making improvements in the Rule 35 system overall.

54. With specific reference to post-traumatic stress disorder (PTSD) I have seen no evidence to suggest that the policy was not operating effectively in this area during the relevant period.
55. The Home Office accepted HMIP's recommendation that all staff should have effective training in the adults at risk guidance. The training, which had been undertaken by operational staff and managers in September 2016, was shared with G4S and our healthcare supplier. To the best of my knowledge, it was subsequently rolled out to G4S staff. By the time of the inspectorate's follow-up report, they were satisfied that this recommendation had been partially achieved. More recently, all staff have undergone mandatory, multi-module training on understanding vulnerability. In addition, all staff who work in IRCs are required to undertake training on mental capacity, to better understand the needs of people who lack decision-making capacity.
56. Since September 2017, a wide range of improvements have been carried forward to improve the physical environment at Brook House for people detained there and to protect the welfare of those most vulnerable. These improvements, which reflect many of the recommendations made in independent reviews of Brook House, include an enhanced cleaning and maintenance programme, and the development of an environment plan, which uses detained individual focus groups to identify options to change activities, and improve the environment of the centre. Refurbishments and

redecorations to the centre commenced in October 2017 and were remarked upon by the Inspectorate in its follow-up report (published in 2019) as had improvements to toilet and shower screening. The process of housing three people in a room designed for two was ceased at Brook House in 2018, as it would be across the immigration removal estate. At the time of writing, the operational capacity at Brook House is 448, 60 bedspaces lower than its peak during the relevant period. Since late 2018 we have aimed to operate all IRCs at no more than 80% of capacity. This reduces the pressure on the Centre operations and allows for the easier identification of vulnerabilities. As the new operating contracts roll out and supplier staffing levels are increased, occupancy levels will be reviewed to ensure we maintain a safe, decent and secure environment for residents. At the time of writing, all IRCs are operating at less than 80% capacity.

57. Initially the vulnerability of individuals was notified by means of an IS91 part C, however a review of the AAR process in March 2017 found that:

- Risks that were identified were recorded on the IS91 part C but this was not clearly labelled as an AAR referral and was therefore not identified/easily identified as such by DEPMU.
- The form IS91 part C was not being sent to the case owner as well as to DEPMU as per the DSO.

Procedures were put in place in April and May of 2017 to address these issues.

58. In response to recommendations made by Stephen Shaw in respect of review and progression of vulnerable individuals two multidisciplinary meetings, both held weekly, take place at Brook House. The first is the Adults at Risk (AAR) meeting, which discusses cases involving those residents who are assessed by the department as vulnerable under the AAR policy. The second meeting is an individual needs meeting which discusses residents with vulnerabilities. The agenda looks at the following:

- Open ACDT
- ACDT Post Closure
- Supported Living Care Plan
- Tackling Anti-Social Behaviour Logs
- MAPPA
- Unfit to fly / unfit to detain

- Supported Living Facility/ Medical Isolation
- Room Sharing Risk Assessment / Single Occupancy
- Complex medical issues - physical and mental health
- Welfare issues
- Adults at Risk level 2 and 3
- Security
- Residents leaving this week

59. Further training was delivered to staff in 2018 in preparation for the implementation of amendments to the definition of torture in the AAR policy on 2 July 2018. In addition, training was provided to healthcare staff at Brook House IRC on 4 October and 29 October 2018, covering 18 members of healthcare staff.

60. I would respectfully suggest that NHS England may be best placed to assist the inquiry with more specific detail on the training of medical practitioners on rule 35 of the Detention Centre Rules.

The Action Plan

61. We are continuously seeking ways to improve the immigration detention system to ensure that it is fair to those who may be detained, upholds our immigration policies, and acts as a deterrent to those who might seek to frustrate those policies.

62. The Home Office is committed to making continuous improvements to immigration detention and is responsive to recommendations and lessons learned from independent and external inspections and reviews.

63. The action plan put in place by the Home Office and G4S constituted a wide-ranging and comprehensive suite of measures, aimed at preventing a recurrence of the Panorama abuse. I am confident that this plan was the right response at the time. It is not possible to say with certainty that these specific actions were the key successful factors in reducing the likelihood of people in detention being abused. Other actions taken, not least G4S's termination of many of the employees featured in the documentary, were equally important. The action plan should be considered in the broader context of

actions taken by the department in the intervening years, many of which I reflect upon elsewhere in this statement. The non-recurrence of abuses similar to those depicted in the documentary gives some assurance that these measures have, together with the wider reforms, been effective, and I am confident that the greater emphasis on whistleblowing would ensure that such abuse is not simply going unreported; however, neither I nor the wider department are complacent in the area of the welfare of those in detention. We will continue to demand the highest standards of all our commercial suppliers to ensure such incidents do not recur and will seek to strengthen measurement of progress against robust performance data. The generally positive reviews and inspection reports of Brook House since 2018 would seem to speak to the progress made and support my contention that we are moving in the right direction at the centre.

64. The Home Office and G4S both reported to the National Audit Office that they had some concerns over performance data, and a reliance on manual processes and staff reporting problems. I do not believe that these acknowledged issues should bring into question the effectiveness of the action plan. Both organisations anxiously scrutinised this plan and would not allow an action to be ‘closed’ without objective evidence that it had been achieved.
65. On-site monitoring and first line assurance functions are undertaken by the DES compliance teams in the IRCs, supported by a small audit team (DESAAT) that works across the individual centres providing second line assurance. From July 2019 DESAAT took over second line assurance of all the recommendations of external scrutiny bodies such as IMBs, PPO, PSU and HMIP to ensure consistent progress is made across the estate. This audit team has the dual function of undertaking estate wide thematic reviews and critical friend challenge on the scope and focus of the pro-active enquiry programme at each centre. A ‘Detention Services Complaint, Lessons Learned and Assurance’ function has been established to share best practice and recap on lessons learned from internal audits of thematic areas which are of wider significance to the work of IE. Recent examples of bulletins issued under this umbrella include deaths in detention, recommendations made by third parties and the impact of Covid 19 (ongoing).

66. The Verita report was commissioned by the G4S board in response to Panorama, and it should rightly be for G4S to assist the Inquiry with an assessment of the extent to which the report's recommendations have made a material difference to the running of the IRC. Most of the recommendations in the plan were for G4S to take forward. Some of the areas of concern highlighted in this report, including around assurance and performance management, were identified by the Home Office in its own reviews of the site, and would be addressed in the re-tendered contract for the management of the Gatwick estate; to the extent that they reflected the Home Office's reviews and/or were addressed in the new contract, they were undoubtedly accepted by the Home Office. The Home Office welcomed this important report when it was published in December 2018. The progress which had already been made in response to Stephen Shaw's second review of immigration detention showed how seriously we took the issues highlighted by Ms Lampard. I note the concerns raised at paragraphs 15.2 and 15.3 of that report. The Home Office agrees that there was room for improvement, and this is now reflected in the improvement in the numbers of, for example welfare staff and educational and recreational facilities identified at paragraphs 24 and 25 above and the overall reduction in numbers within Brook House identified at paragraph 27 above. I am aware that the Verita report was also critical of management failures. The Home Office again agrees that there was room for improvement, and this is now reflected in new staffing model, designed in partnership with the Prison Service, as well as major improvements in staff's professional skills. There is also a clearer and firmer approach to sanctions for poor performance, addressing the flaws in this respect in the previous contract.
67. We are, of course, also carefully watching the progress of the present Inquiry and are eager to learn from it.

Stephen Shaw's Report

68. The Home Office is committed to implementing the recommendations made by Stephen Shaw, and considerable progress has been made in this respect. Mr Shaw's important recommendations have shaped the Home Office's systematic and ambitious programme of reforms to immigration detention since 2015. Action was taken to reduce the capacity of rooms where extra beds had been added, and the estate itself is now around 50% smaller than it was in 2015.

69. From the financial year 2019/20, a national uplift in funding of £40,000 was allocated to the IMBs for the immigration detention estate. The uplift had been requested by the IMB National Chair, in part to allow for more site visits across IRCs and short-term holding facilities. This uplift was continued in 2020/21. I am not aware of the number of visits ultimately having increased but no doubt the Inquiry will be hearing from the IMB on this question.
70. Following a recommendation around the implementation of body worn cameras (BWC) across the IRC estate, this was accomplished at Brook House in December 2017. Rollout across the remainder of the IRC estate was completed by September 2019. DSO 04/2017 – Surveillance Camera Systems, contains information on the use of BWC, and Home Office guidance is publicly available¹⁰.
71. Quality checks of BWC footage were conducted by G4S and these logs provided to the Home Office. Colleagues within Brook House conduct dip samples of BWC footage to identify issues including where the supplier has failed to use BWCs where use of force was instigated.
72. After consultation, the Immigration Detention Reform and Improvement Board (previously known as “The Shaw Board”, set up to work to deliver more humane and effective use of detention and drive the implementation of recommendations made by Stephen Shaw) agreed that an increase in staff who have direct operational experience in closed institutions would be considered on a case by case basis as roles became available through staff turnover. Agreement was obtained to IRC roles being advertised at stage 3 (once offered to surplus staff) to encourage applications from those in closed institutions. Following this agreement, the recommendation was closed in January 2020.
73. Following the Shaw Report recommendation 42, the Home Office instigated an assurance processes to examine adherence to professional standards and staff culture in IRCs on a regular basis. A monthly reporting process gathers data on complaints against

¹⁰ <https://www.gov.uk/government/publications/safeguarding-body-worn-video-bwv-data-2018>

DCOs and this is discussed monthly by Home Office operational managers. This allows trends to be analysed and enables local investigation in IRCs, leading to a greater understanding of the staff culture across the wider estate. This also ensures that individual DCOs cannot move to different suppliers to avoid disciplinary action.

74. Both prior to and post the Panorama programme the certification team had been working to strengthen working relationships with all of the suppliers (including G4S) to ensure a closer dialogue and quicker raising of concerns or issues. This continued (and still continues) after the programme. The Certification Team maintain a database of suspended supplier staff that can be referred to should issues arise.
75. With specific regard to Brook House IRC assurance, in July 2019 DESAAT conducted an on-site review to inform the handover of first line assurance responsibility to the local DES Compliance team. Since that time the DESAAT lead for Gatwick has continued regular contact, especially at HEO/EO level, with the Assurance Leads within the Compliance Team at Gatwick. Gatwick IRCs have been included in cross-estate second line assurance reviews conducted since this time, including Internet Provision and Room Sharing Risk Assessments. In addition, DESAAT has provided guidance to the local Compliance team on both the demobilisation of the G4S contract and the mobilisation of the Serco contract.
76. Looking ahead, the Home Office will continue to pay very close attention to the recommendations made by recognised third parties in their reports on, and inspections of, immigration detention. These include the Independent Inspector of Borders and Immigration, who recently published his inspection plan for the remainder of 2020/21. The welfare and dignity of people in detention will remain of the utmost importance to the department, and I can offer the Inquiry my personal assurance that all our contractors will be held to the highest standards.

STATEMENT OF TRUTH

77. 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 causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Name: Philip Riley

Signed:  **Signature**

Date: 12 November 2021