

BROOK HOUSE INQUIRY

SECOND CORPORATE WITNESS STATEMENT FILED ON BEHALF OF THE HOME OFFICE

WITNESS STATEMENT OF PHILIP RILEY

ON BEHALF OF THE HOME OFFICE

1. 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

2. I am a Senior Civil Servant, currently employed by the Home Office. My experience and qualifications are as set out in my first statement. 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.
3. The Inquiry has asked for further information regarding actions taken by the Home Office to address the various third party recommendations I refer to in my earlier statement.
4. I annex to this statement a document containing certain recommendations that the Inquiry has asked about in tabulated form, setting out whether recommendations were accepted; reasons for non-acceptance; and actions taken against those recommendations that were accepted. For reasons that I have set out in paragraph 13 of this statement, information concerning the response to Stephen Shaw's second review have been dealt with separately.

Independent Monitoring Board (IMB) Brook House IRC 2017 Annual Report

5. In its 2017 Annual Report, the Brook House IMB identified five areas where improvements were recommended. As set out in a memorandum of understanding, the

Home Office is required to respond with an action plan to the IMB within six weeks of a report's publication.

6. The IMB's recommendations were assigned 'owners' such as Commercial or Policy teams, the Home Office Delivery Manager or the NHS, who were responsible for providing updates and overseeing the action required to meet the recommendation. Accepted recommendations were then subject to assurance by the DES Audit and Assurance Team ('DESAAT'), which reviewed actions taken for those recommendations that were accepted. In the annexed table, I set out where relevant the results of that exercise.
7. Recommendations directed at our commercial suppliers, such as those the IMB asked G4S to consider in 2017, are monitored by both the supplier and the Home Office. The supplier provides updates when requested, and first line assurance was at the time conducted by DESAAT and the DES compliance team. Regular discussions would then be held over the status of the recommendation, and whether this was considered complete, or ongoing. I set out in a table within the Annex, the steps taken by the Home Office to ensure that the contractor had addressed the recommendations.

Her Majesty's Inspectorate of Prisons (HMIP) 2017 Inspection Report

8. The Inquiry has asked a number of questions regarding the service improvement plan which was published following Her Majesty's Inspector of Prisons' 2017 inspection report.
9. The Annex to this statement sets out, in the fullest level of detail available, actions that have been taken against those recommendations accepted by the Home Office. The appended table shows all the information which is available in respect of those actions. This information has been provided by DESAAT. My earlier statement explains (at paragraph 65) the important role that DESAAT has played since July 2019 in performing second line assurance of all recommendations made by external scrutiny bodies. This is the way in which progress against outstanding actions is now monitored.
10. Once the service improvement plan is published, officials will seek regular updates on progress against actions from the contractor, where relevant. The Annex includes updates on those actions from as recently as October 2019.

11. I would refer the Inquiry to paragraph 53 of Michelle Smith's witness statement [INQ000057], in which she observes, correctly, that recommendations from HMIP reports stop being 'tracked' when the IRC is re-inspected (unless the Inspectorate happens to repeat a recommendation from a previous report). For that reason, I hope the Inquiry will understand that there is limited information available in connection to recommendations from the 2017 inspection.

Stephen Shaw Report

12. The Government's formal response to Stephen Shaw's second review was laid before Parliament on the day of its publication in July 2018, and can be read online¹ [HOM032600]. Since then, progress to implement Mr Shaw's recommendations has been overseen by the Immigration Detention Reform and Improvement Board (which was initially known simply as the 'Shaw Board'). This board comprises representatives of business areas from across the Home Office, as well as partner organisations (eg. NHS England) and other government departments. It is tasked with setting the operational strategic direction for a cross cutting programme of work to improve and reform immigration detention.

13. Whilst I have done my best to include in tabular format those recommendations from various bodies that have been accepted and rejected, this is not an exercise that can be easily achieved with Mr Shaw's recommendations, which cover a wide range of topics including those outside of the scope of this Inquiry and which do not necessarily lend themselves to such an exercise. As I have set out above, the Government's response to Stephen Shaw's second review is set out in the document that was laid before Parliament and I have set out in my first statement (see e.g. paragraphs 56 to 59 and 68 to 75) those changes which have been made that directly affect Brook House, including in direct response to Mr Shaw's recommendations.

Other Proposed Recommendations

14. The Inquiry has referred me to the House of Commons Home Affairs Committee's report on Immigration Detention, which was published on 21 March 2019.

¹ [Home Secretary statement on immigration detention and Shaw report - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statements/home-secretary-statement-on-immigration-detention-and-shaw-report)

15. I note what is said in the letter to the Inquiry, from Speaker's Counsel, in particular under scenarios 3 and 4. I understand that it *might* be permissible for me to summarise the findings of a report, if it were done for the purpose of setting the historical scene and context, e.g. to steps taken subsequently. I understand that for reasons of Parliamentary Privilege I am limited in the extent to which I can refer to the substance of the Report, or the Government Response. I can inform the Inquiry about the steps taken since the recommendations were made.
16. The Home Affairs Committee published *"Immigration detention: Government Response to the Committee's Fourteenth Report of Session 2017-19"* on 6 October 2019. It can be read in full online, and contains the Home Office's response together with an introductory letter from the then Immigration Minister².
17. The Response explains which recommendations were accepted, and for those recommendations which could not be accepted (wholly or in part) an explanation is given.
18. The enclosed table sets out progress made against the accepted recommendations.

Clarification of First Statement

19. I am asked to clarify certain statements made in my earlier corporate statement, which was filed with the Inquiry on 12 November 2021.
20. I am asked about paragraph 8 ("*...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. ...*") and paragraph 19 ("*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.*")
21. I also refer to specific failings at paragraph 24:

² <https://publications.parliament.uk/pa/cm201719/cmselect/cmhaff/2602/2602.pdf>

“...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”.

22. For the avoidance of doubt, it is these organisational failings (within the contract itself, and the way in which the contractor’s performance was overseen, managed and assured) to which I referred. The new contract itself is intended to be the remedy for those failings, and I include a list of its key features in paragraph 24 of my earlier statement. These are also the features which underpin the new contract’s greater focus on detainee welfare.
23. As per my earlier statement, the Home Office agrees with the NAO’s assertion that its oversight of the contract held with G4S was lacking in some respects. The specific failings included the insufficient level of Home Office staff onsite to monitor G4S’s performance, and a contract which did not give it the levers needed to penalise G4S for non-compliant practices.
24. Again, the remedies to these failings can be found in the new contract for the Gatwick immigration removal centres; specifically, in its key feature of monitoring performance in terms of its impact on detainees.³
25. It is, in my view, too soon to comment on the effectiveness of the contract. The pandemic has meant the site has been operating at a lower capacity than during the relevant period, and has meant that Serco has been limited in the regime it can run at the centre. This has made it difficult to assess whether the cultural changes and staffing improvements envisaged in the contract (and any resultant improvement in detainee welfare) have been delivered. Our contract monitoring and commercial colleagues will continue to monitor its effectiveness, and we will not hesitate to ask for external assurance of the contract if we consider it to be necessary.
26. The failings of oversight and assurance have been mitigated by the expansion of the Home Office onsite presence that I write about in paragraph 15 of my earlier statement.

³ [Contract for the provision of operational, management and maintenance services at Brook House Immigration Removal Centre and Tinsley House Immigration Removal Centre/Pre-Departure Accommodation - Contracts Finder](#)

There was an acknowledgement in the NAO report that the larger compliance team allowed the Home Office to scrutinise G4S's performance and focus on other issues of importance to detainees.

27. To address the failings of oversight and assurance, there have also been changes to the governance of third-party recommendations (paragraph 65 of my first corporate statement) and the establishment of a DES Complaint, Lessons Learned and Assurance function (paragraphs 65 and 75 of my first corporate statement).

28. I am asked about paragraph 25 of my first corporate statement, and to *“specify which response to findings in Shaw review and which lessons learned following Panorama you are referring to, and set out the clauses/terms/conditions of the contract that addresses them”*. To clarify my earlier statement, it was not my intention to suggest that individual clauses of the contract were drafted specifically to address particular aspects of either Panorama or Mr Shaw's two reviews. Rather, the overall focus on detainee welfare (to which I allude in the previous statement) is informed by both Panorama and Shaw. The documentary, and the findings of Mr Shaw in his two reviews, brought into sharp focus the fact that more could be done to ensure that the welfare of detained persons was fully emphasised as the primary ambition of services delivered within IRCs.

29. In relation to paragraph 26 of my first corporate statement, I am asked about the Key Performance Indicators (KPIs) Schedule 2.2 of the new contract,⁴ sets out the process by which key performance indicators in the contract are measured. The KPIs themselves can be found in a table within that schedule. I would in particular draw the Inquiry's attention to:

- KPI 15, which refers to paragraph 16.4 of schedule 2.1, 'Maintaining a Healthy Staff Culture';⁵
- KPI 9, which relates to staff misconduct;⁶

⁴ <https://www.contractsfinder.service.gov.uk/Notice/Attachment/35dd71ea-06e3-4e34-b789-c1cff015897a>

⁵ <https://www.contractsfinder.service.gov.uk/Notice/Attachment/35dd71ea-06e3-4e34-b789-c1cff015897a>
page 18

⁶ <https://www.contractsfinder.service.gov.uk/Notice/Attachment/35dd71ea-06e3-4e34-b789-c1cff015897a>,
page 17

- KPI 20, as relates to failure to report a serious incident.⁷

30. Monitoring arrangements for these and other key performance indicators rely on robust and comprehensive contract management arrangements in place in the Gatwick IRCs. These include structured daily, weekly and monthly operational meetings, and quarterly contract review meetings, where the contract management team holds the provider to account on service delivery. Part B of schedule 2.2 sets out in full the contractual requirements for performance monitoring, including the requirement for the supplier to submit a regular Performance Monitoring Report and Balanced Scorecard Report.

31. I am assured that our partners at Serco have been able to assist the inquiry with the requested data in relation to Serco's performance since taking over the contract.

32. In my earlier statement, I made reference to wider reforms of immigration detention (paragraph 27). I am asked to give further details of those reforms. In that same paragraph, I make specific reference to those reforms, as follows:

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

33. Further reforms include the closure of IRCs considered no longer fit for purpose (such as Campsfield in 2018); greater use of alternatives to detention, such as immigration bail and reporting to manage individuals in the community; an end to the practice of three detainees occupying rooms originally designed for two; and the publication of more data on immigration detention than ever before (including on the number of deaths in immigration detention and on escort).

⁷ <https://www.contractsfinder.service.gov.uk/Notice/Attachment/35dd71ea-06e3-4e34-b789-c1cff015897a>, page 19

34. We believe the Adults at Risk policy continues to effectively identify vulnerable individuals in detention, and provides a clear framework for caseworkers to fairly assess any vulnerability, balancing this against known immigration considerations before making an informed decision on continued detention. However, we do recognise the importance of continuing to review the policy. The Home Office recently introduced the Nationality and Borders Bill to Parliament, which will deliver comprehensive reforms. Consequently, we have paused work to reform the AAR policy and Detention Centre Rules 2001 (which include the Rule 35 process). We need to ensure that any further reforms to AAR are compatible with the future system, rather than the one that will soon be reformed.
35. The Immigration Detention Reform and Improvement Board has a significant role to play in monitoring the effectiveness many such reforms in this area, and is tasked with progressing and reviewing recommendations from Parliamentary and other independent external reports. The Inquiry will, I hope, appreciate that some of these measures, such as the closure of certain IRCs, do not lend themselves to conventional evaluation techniques.
36. Under the terms of the contract, the new supplier is required to submit two reports (a Performance Monitoring Report and Balanced Scorecard Report) each month⁸. These are reviewed by the Home Office and Serco together at monthly Performance Review Meetings.
37. The current contract's sanction regime can be found within the contract in Part A of schedule 2.2.⁹ Under the new performance regime, the application of Service Credits is directly linked to profit, meaning that Serco may have to pay up to 100% of their monthly profit where there are critical service failures. Repeated failure to meet the key performance indicators that relate to staff conduct, misconduct or serious complaints will attract significant financial penalties and could lead to the termination of the contract. This is in contrast to the previous contract.

⁸ <https://www.contractsfinder.service.gov.uk/Notice/Attachment/35dd71ea-06e3-4e34-b789-c1cff015897a>, page 8

⁹ <https://www.contractsfinder.service.gov.uk/Notice/Attachment/35dd71ea-06e3-4e34-b789-c1cff015897a>, page 5

38. In paragraph 56 of my earlier statement, I made reference to many of the improvements that have been made to the physical estate at Brook House. Some of these measures can be linked to specific recommendations made in independent reports. For example, the work undertaken to improve toilet screening follows recommendation 7 of Mr Shaw's second review [HOM032600]. Improvements seek to provide an environment more conducive to the physical and mental wellbeing of people detained.

Occupancy at Brook House

39. Data on Brook House's detained population is available publicly at [Immigration statistics quarterly release - GOV.UK (www.gov.uk)] The number of people in detention on the last day of each quarter by place of detention (including Brook House) are published in table Det_D02 of the detention detailed datasets. I would invite the Inquiry to review these data, which have been cleared for release as official immigration statistics and released on a quarterly basis.

40. I am unable to provide future projections for occupancy at Brook House, as these figures do not exist. I can however confirm that there are no plans to adjust the maximum occupation capacity, which is currently 450.

<u>Statement of Truth</u>	
<p>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.</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	Philip Riley
Signature	<div style="border: 1px dashed black; padding: 10px; text-align: center;"> Signature </div>
Date	3 February 2022