

BROOK HOUSE INQUIRY

First Witness Statement of Shane Byrne

I provide this statement in response to a request under Rule 9 of the Inquiry Rules 2006 dated 2 February 2022.

I, Shane Byrne, date of birth: [DPA] Security and Assurance Manager, Her Majesty's Passport Office (HMPO), 101 Old Hall Street, Liverpool, L3 9BD, will say as follows:

Introduction

1. In so far 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 answers provided below are to the best of my knowledge and recollection, with reference to the documents noted in the Rule 9 request that have been made available to me, all of which had been made available by 24 February 2022, and to a limited set of documents drawn to my attention by those advising me in the period provided for drafting this statement. Should the Inquiry wish me to consult any other documents, I would of course be able to do so if given sufficient time.
3. I have been shown the Terms of Reference and Scope Determination. It has been explained to me that the Inquiry stems from the events shown on Panorama, and is investigating matters "*stemming from acts of deliberate abuse of the sort shown on Panorama*", and not decisions to detain, as set out in the Scope Determination. I have carefully considered the Inquiry's questions and the way in which they relate to my work during the Relevant Period (as described below).

Background

4. I am currently employed in the Home Office, as part of Her Majesty's Passport Office (HMPO) as a Security and Assurance Manager, which is at Higher Executive Office (HEO) grade. I have worked in this capacity since 12 February 2018.
5. I have worked for the Home Office since 6 June 2004. During this time, I have worked in various Home Office departments including as an Administrative Assistant (AA) and deputising to Administrative Officer (AO) in the Highly Skilled Migrants Programme (HSMP) within what was Managed Migration; as an AO in the Interview Booking Unit (IBU) within what was Immigration and Nationality Directorate; as an Executive Officer (EO) and deputising to HEO in Criminal Casework and Operation Nexus within Immigration Enforcement.
6. At the time of the Relevant Period, I was working within the Operation Nexus team within Criminal Casework. During this period, I was working as a case worker, at EO grade and occasionally deputising to a HEO as a senior decision maker.
7. I set out below some publicly available background on Operation Nexus, in order to assist the Inquiry, but I should note that I was not working in a policy role, and as a case worker at EO grade my role was to apply policies and procedures.
8. Operation Nexus commenced in 2012¹, and was described as follows by the Home Office²:

"Operation Nexus is a joint initiative between Immigration Enforcement and the Police. It aims to more effectively tackle offending by foreign nationals, through close working and smarter use of police and immigration interventions. This includes the identification of those lawfully here (both EU and non EU nationals) but whose conduct merits their removal or deportation from the United Kingdom, and has included criminals where intelligence demonstrates

¹ <https://www.gov.uk/government/news/operation-nexus-results-in-more-than-175-removals>

² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/382542/2014_12_04_Home_Office_response_to_ICI_Operation_Nexus_report.pdf at page 2

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involvement in serious crimes including sexual offences against children and rape.

Nexus commenced in the Metropolitan Police area in October 2012 and variants of the Nexus operating model have been developed for adoption across the UK. Currently there are four broad operating models and each is designed to take into account regional differences in size, geography and community demographics. A Nexus operating model has been introduced in the West Midlands, Greater Manchester, Scotland, Merseyside, Cleveland Kent, West Yorkshire, Cheshire and Wales. IE expects to implement a Nexus model within Avon and Somerset by January 2015, with East Midlands and Lancashire by spring 2015.”

9. In December 2014, the Independent Chief Inspector of Borders and Immigration said of Operation Nexus, in the foreword to his March – June 2014 inspection report³:

“Operation Nexus is a joint Home Office and Police Service initiative to identify and remove or deport those who pose a risk to the public or who are not entitled to be in the UK. The most significant feature involves stationing Immigration Officers at police custody suites to identify immigration offenders and organise for them to be detained pending their removal from the UK.

It was clear that this aspect of Nexus was having a positive impact in London, with greater numbers of immigration offenders being identified and removed or deported from the UK as a result. Although the number of such outcomes had also increased in the West Midlands, the rate of improvement was slower than in London and in some cases foreign nationals were not having their status checked before being released.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/547331/Operation-Nexus-Report_Dec_2014.pdf

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I was pleased to see that the Police and Home Office were sharing resources and intelligence to target 'high harm' individuals. Although this was an entirely new work stream, its potential was demonstrated by the removal or deportation of potentially dangerous foreign nationals."

10. The work of my team was on one strand of Operation Nexus – known as 'High Harm'. This strand dealt with the category of foreign national offenders who have been identified as meeting the criteria for deportation (where the Secretary of State deems the person's deportation to be conducive to the public good), and other 'high harm' foreign national offenders who were subject to removal and who had been encountered via police custody suites. I understand that other strands were work at custody suites in police stations, and increased data sharing between the police and the Home Office.
11. During the Relevant Period, my interaction with Brook House IRC depended on how many foreign national offenders (FNOs), currently assigned to my caseload, were being held at the detention centre under immigration powers. I was a remote case worker, working in the Capital Building, Old Hall Street, Liverpool. I never attended Brook House IRC and would only communicate with onsite staff via fax, email, or telephone calls.
12. The main areas of work were as follows:
 - a. If my caseload included a FNO detainee held at Brook House, my main responsibility as a case worker was completing regular detention reviews, normally every 28 days the detainee was held. Dependent on the length of detention, these reviews would be checked and authorised by a variety of senior members of my team and my department. It would always be at least HEO level but could be up to senior civil service (SCS).
 - b. When a detainee applied for immigration bail, if it was contested by the Home Office, as the case worker I would have to draft a bail summary. This document

had to be authorised at HEO level after completion before being sent to the local Immigration Tribunal Presenting Officer's Unit.

- c. I would deal with further representations from FNOs. These were chiefly human rights claims, notably family and private life (Article 8 of Human Rights Act). I would need to consider the representations in line with the then current published policies. Once a response was drafted, this would be checked by a senior member of my team, a HEO Senior Case worker, before it was served upon the FNO and/or their legal representatives.
- d. I would also be responsible for responding to any Rule 35 reports and any modern slavery claims made by the FNO or their representatives. Again, I would follow the published guidance and policy when deciding whether to maintain detention or not. This would again be checked and authorised by a senior member of my team, normally an HEO or SEO. I understand that the Rule 35 process is one of the areas of interest for this Inquiry.

13. As set out above, in none of these areas did I actually make the final decision.

14. Another interaction I may have had with Brook House was liaising with colleagues who were responsible for gathering bio-data details for the purpose of obtaining a travel document. This would usually be sent to a general email inbox in the form of a pro forma.

15. I was responsible for replying to any general enquiries or correspondence from the FNOs or staff within Brook House IRC.

16. Finally, I was responsible for setting for removal directions once an FNO could be deported.

17. All actions that were completed above were fully documented within case notes on CID and letters produced were generated in Docs Gen.

18. I have not worked at Brook House itself and I cannot comment on the composition, roles, and responsibilities for the Home Office case work teams at Brook House

during the Relevant Period. I can confirm that my team, Operation Nexus, which was based in the Capital Building in Liverpool, were comprised of around fifteen EOs, six HEOs, and two SEOs on site. Our Assistant Director (Grade 7) worked as part of a team based in Croydon. Each EO would have a caseload, which ranged from between ten to thirty cases, and would interact with Brook House IRC should they have a FNO in detention in that facility.

19. I am unable to comment on the management structure of all case work teams across the Home Office. In my team, Operation Nexus, as an EO, my team leader was a HEO. Each HEO would have a number of EOs under their management. Finally, there were two SEOs – one Operational, who managed the HEOs and one Senior Caseworker, who managed the HEO senior case workers.
20. During the Relevant Period, my HEO team leader was Ann Knott. My SEO was Stephen Murray. I did not have any staff members who reported to me. As a deputising HEO I would check and authorise various case worker decisions on further representations. I do not recall authorising detention or the continuation of detention.

General

21. It has been over four years since I worked in Criminal Casework. Therefore, I cannot recall the names of various policies and guidance that were available to me during the Relevant Period.
22. As I have mentioned, I did not make detention decisions myself, and I understand that this Inquiry is not looking at detention decision making. However, I can explain how I may have become aware of points about a detainee's welfare while I was drafting recommendations regarding detention.
- a. First, when considering whether to recommend detention of an FNO, the matters that I was required to consider included their immigration history, their criminal history, any medical issues, any outstanding barriers to their removal and their family and private life.

- b. Second, I had to arrange a bedspace via Detained Escort and Population Management Unit (DEPMU). I had to complete a pro forma which had to be signed off by my HEO and then forwarded to the detention gatekeepers. This pro forma contained an assessment on whether detention was justified and proportionate at the current time and did involve an assessment on whether the FNO was an adult at risk.
- c. Third, once an individual was detained, as the case worker, I would have to regularly draft reviews of their detention to ensure it remained appropriate – including ad hoc detention reviews on receipt of a Rule 35 report, as per the process set out in policy and guidance. Detention reviews did include medical needs and personal circumstances of the detainee such as their health or wellbeing and/or family/private life. Once I had made my recommendation, it was sent to an authoriser, normally my operational manager but if detention was maintained for several months, the authoriser would be of a higher grade such as SEO, Assistant Director or even Director.

23. The main ways in which I considered the welfare of a detainee were through the Adults at Risk Policy and Rule 35.

Adults at Risk Policy and Rule 35

24. I have considered the Adults at Risk Policy [CJS000731] and the Rule 35 policy [HOM002591] from the Relevant Period. As it has been over four years since I left Criminal Casework, these are not policies that I remain familiar with. My new role is in a completely different area of expertise. At the time of my employment with Criminal Casework during the Relevant Period, these policies were in place and were used and referred to by staff including myself as part of our case working role.

25. I can state that during the Relevant Period when a Rule 35 report was received, case workers (including myself) would complete a response; whether to maintain detention or to release the detainee based upon the facts presented in the Rule 35 report and considering all previous evidence. A response would be drafted on a specific template and a detention review would be completed. These had to be

authorised by an HEO or above before being completed, the actions closed off on CID, and documents served upon the detainee.

26. I cannot recall whether any additional factors were applied depending on whether the report was a Rule 35(1), (2) or (3).

27. In relation to the question about the policies and procedures in place to follow up with the General Practitioner who provided the rule 35 report where the report was considered incomplete or inadequate, I can confirm that if a Rule 35 report was received from any detention centre and was found not to have been completed appropriately, case workers would generally contact the detention centre and ask for the report to be resubmitted. I cannot recall whether this was set out in written guidance. Aside from this process, I am not aware of any policies or procedures for monitoring the quality of Rule 35 reports received from Brook House during the Relevant Period.

28. I have been referred to a number of currently applicable documents (the Adults at Risk Policy [SER000270], the DSO in relation to Rule 35 [CJS007075] and DSO 04/2020 Mental Vulnerability and Immigration Detention Non-clinical guidance July 2020 [PPG000101]). I cannot assist the Inquiry with these as I no longer work from Criminal Casework/Immigration Enforcement having left my role on 9 February 2018. I therefore cannot comment on how these versions differ from previous released policy nor can I tell you how they are currently applied by Home Office case workers. I am unable to confirm if any other factors are considered within Rule 35 reports depending on the whether the report refers to Rule 35 (1), (2) or (3) and what the current policies and procedures are in place in respect of Rule 35 reports which are considered incomplete or inadequate.

D1527

29. I have considered the documents provided to me in relation to the case of D1527. His criminal history has been redacted by the Inquiry, but he had been convicted of at least one serious offence, and his case was being handled as part of Operation Nexus. The Inquiry has referred me to this GCID records which show that at the

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time I started to deal with his case, he was awaiting trial for a number of offences, and was then convicted of assault and of (twice) failing to comply with notification requirements of the { Sensitive/Irrelevant }.

30. I note that at p6 of the Rule 9 responses drafted by D1527's representatives there is some criticism of me. The criticism relating to Rule 40 is misplaced: it was a decision taken by the detention centre, they may have informed me, but I cannot remember now whether they did so. I can see that I do refer to Rule 40 in a CID note – I am uncertain whether I was aware of all the circumstances that led to this. I was aware of the ACDT and referred to it. It was not part of my role to 'disclose the Rule 40 decision'. As regards the Rule 35 process, the policy applicable at the time, DSO 09/2016 [HOM002591] set out how I had to respond to a Rule 35 report. It does not envisage caseworkers directing medical professionals to hold appointments or produce reports (whether at the request of detainee's representatives or otherwise). It sets out the requirements for screening on arrival at an IRC, and the opportunity that D1527 would have to raise his issues with healthcare.
31. In relation to D1527 and his ongoing detention during the Relevant Period, the documents provided by the Inquiry give full details of my involvement during that time, which is now a number of years ago. I am unable to give much or any useful evidence about how I would approach this case now if I was in the same role still, or give evidence about the recommendations I made at the time, for a number of reasons.
- a. I do not now remember much about this particular case.
 - b. I have not worked in a Criminal Casework capacity for over four years. Whilst I can generally recall information about how the case working of detainees in Brook House IRC was managed, I just do not remember enough, some four years outside of that area to be able to comment at all accurately on whether or not a policy was applied correctly.

- c. On top of that, some of the significant factors in favour of maintaining detention have been redacted by the Inquiry as sensitive / irrelevant, including the offending history and the nature of a serious offence that he had been convicted of – without being able to see and discuss unredacted copies, and given the passage of time since I dealt with this case, it would be impossible to add further comment in a witness statement about the balance that was struck at the time.
 - d. I do not understand that this Inquiry is considering detention decision making, and I am told that there is an outstanding civil claim made by D1527 relating to his detention. Even if I were able to give any further evidence regarding the recommendations I made, and which my superiors authorised, I would not feel comfortable doing so.
32. I cannot therefore add much to the documents. I can confirm that the documents listed in the letter were created by me, with my knowledge and understanding of the published policy at that time. All of the factors taken into account, and how they were weighed against the welfare of D1527, are set out in the detention reviews which I have been referred to – in particular sections 8 – 11 highlight factors that are relevant to welfare. In each case the decision I recommended was authorised by a more senior officer who provided their own comments in the form.
33. The detention reviews were considered and approved by senior managers before the decision on detention was made. At the time that I made these recommendations on detention, to the best of my understanding and knowledge, I was applying the then policy correctly and had justified my decisions in accordance with that policy. Had I incorrectly applied the policy, I am sure that my senior manager would have not authorised the recommendations to maintain detention or my response to the Rule 35 report and the reviews would have not been issued as they were.
34. I can confirm that in general, at each step of the process whenever I recommended maintaining or ending detention, I considered all factors available to me, in line with the then policy on adults at risk and Rule 35. There is a section in all detention

review forms for the decision maker to specifically consider and refer to Rule 35 and the Adults at Risk policy and I completed this section at each detention review during the Relevant Period. I had no reason to think that I was applying these policies incorrectly – as my recommendations to more senior officers were authorised. The consideration I gave to any correspondence and documentation received is always set out in the detention reviews.

35. I cannot now add anything from memory as to the reviews of D1527's detention.

However, I would like to note that just from re-reading these documents now you can see that the authorising officers' comments demonstrate that they were concerned that he posed a high risk of harm to the public as well as a high risk of absconding, with a history of doing so, but that they also considered the treatment available to him in detention. For example, the following are extracts from their comments:

- a. Review on 16 March 2017: *"I have considered all the relevant factors contained within this review and authorise the continued detention of Mr D1527. In reaching my decision I have balanced the presumption of liberty against an effective immigration control, national security and the protection of the public. He is a failed asylum seeker, who has a history of absconding from both the Courts and Immigration Enforcement. He is a convicted [Sensitive/Irrelevant] who is subject to the [Sensitive/Irrelevant] and as such presents a continuing risk to the public and in particular [Sensitive/Irrelevant]."*
- b. Review on 6 April 2017: *"[D1527] clearly has no regard for the law or immigration control as evidenced by his actions. He presents a high risk of absconding and a risk to the public."*
- c. Review on 18 April 2017: *"[D1527] clearly has no regard for the law and presents a risk of harm to the public" and "I am satisfied that his medical needs are currently being managed effectively at the IRC and he is being closely monitored."*

d. Review on 16 May 2017: *"I am satisfied that we are managing his medical needs effectively."*

36. In terms of the Rule 35 process, I can remember very little of this case and cannot add much at all to the documentation. As far as I was aware from the information provided to me, his medical needs were being dealt with in Brook House. I am not a healthcare expert, and I was reliant on the information provided to me via the Rule 35 process and from Healthcare.

37. I can see from the documentation itself that following receipt of the Rule 35(3) report dated 13 April, page 3 of [HOM005752] outlines that the report was taken into consideration and the decision was made to maintain detention having balanced the risk factors against immigration control factors. I can see that it was considered that D1527's medical needs were being managed sufficiently and the negative factors outweighed the risks in these particular circumstances.

38. I can see from the detention reviews that I took into account medical evidence provided by D1527 in relation to his mental health, as shown in the section where the case worker is required to consider and comment on medical conditions. I completed this section in all detention reviews for the Relevant Period.

39. The psychiatric report of Dr Thomas was referred to in the detention review of 13 June 2017, which states *"On 31 May 2017, we received a psychiatric report which stated that [D1527's] continued detention was deleterious to his health and that he should be released. Healthcare confirmed that they had no concerns regarding his detention however on 13 June 2017, a Judge ordered [D1527] to be released from detention"*. I cannot now recall whether information not in the form of a Rule 35 report prompted an ad hoc detention review at that time. In general, I recall that I treated a medical report from representatives as further representations, and an article 3 claim. In any event, I can see from this review that as the Judge had ordered the detainee to be released no further consideration was needed for the medical report in the review.

40. In relation to my response to the Rule 35 report dated 18 April 2017, I cannot recall specifically how I reached these conclusions however as with all responses to Rule 35 reports I would have taken into account all relevant factors and evidence and applied these to the relevant policies at the time, as set out in the response.

D1798

41. I have considered the bail summary [HOM0011904] and GCID notes [HOM012170] in relation to D1798. I can confirm that I was not the case owner and I completed this bail summary (the version I have been shown is undated but the chronology goes up to 11 September 2017) due to one of my colleagues being absent. I therefore would not have made either the recommendation or the decision to detain them.

42. I do not particularly recall this case, but I would have based the draft on the existing information in the system. In all cases, bail summaries were authorised by a senior manager and then would be put to an Immigration Judge by the Presenting Officers' Unit. Sometimes the Presenting Officers would come back to us prior to the bail hearing if they wanted more information.

43. I note purely from the document that the reasons for opposing bail in this case were that:

- a. He had entered the UK in 2014 on the Eurostar, using a French ID card that was not his.
- b. He had been convicted of a serious offence (the details are redacted as sensitive/irrelevant).
- c. He only claimed asylum after being apprehended by the police – the asylum claim failed and he eventually had exhausted all his appeal rights. He had also made further representations which had been rejected.
- d. He hadn't complied with reporting conditions in the past.

e. A removal had failed because he had become disruptive.

44. Therefore the bail summary set out that he had used deception to evade immigration controls, he only came to the attention of the authorities via the police (he didn't try to regularise his stay), he had no incentive to stay in touch (i.e. not abscond if he was released from detention pending his removal from the UK) because he had no outstanding appeal, he had previously failed to reported and while in the UK he had committed a serious crime – overall it was judged that there were substantial reasons for believing he would fail to surrender to custody if he was released on bail.

45. Otherwise I do not recall having any dealings with this case whatsoever (whether reviews of detention or bail applications).

<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 causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.	
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.	
Name	Shane Byrne
Signature	<div style="border: 1px dashed black; padding: 5px; display: inline-block;">Signature</div>
Date	25 February 2022