

BROOK HOUSE INQUIRY

First Witness Statement of Frances Hardy

I provide this statement in response to a request under Rule 9 of the Inquiry Rules 2006 dated 3 February 2022. I have been authorised by the Home Office to provide this witness statement.

I, Frances Kathleen Alexandra Hardy, Head of Risk and Assurance, 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. 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 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.

Background

3. I am a member of the Civil Service and am employed by the Home Office as a Grade 6. I joined the Home Office as a Grade 7 in November 2008, following a transfer on promotion from HM Revenue and Customs. I have worked in the Home Office continuously since then.
4. My first role was as the Head of the Drug Enforcement in the Drug and Alcohol Unit where I was responsible for the delivery and implementation of the restricting drug supply strand of the Government Drug Strategy. In November 2014 I joined Immigration Enforcement as the Head of Operational Practice and Guidance in Detention and Escorting Services

(DES). I gained promotion to Grade 6, the grade I retain now, in September 2017 as the Head of Risk and Assurance within DES.

5. In my current role I have oversight of all aspects of corporate support and risk management for DES (including briefings, parliamentary work, complaints, detention-related litigation and the rolling programme to review detention-related operational guidance); aspects of detention-related audit, assurance and risk management; and responding to external reviews of the detention estate including our relationship with external audit and inspection bodies, including HM Chief Inspector of Prisons.
6. During the Relevant Period I reported to Sal Edmunds (as Head of Risk and Assurance). Five members of staff reported directly to me during the Relevant Period as follows:
 - Gill Foley, Senior Executive Officer and Manager of the briefing and correspondence team
 - Jose Domingos, Higher Executive Officer, operational support and guidance team, who was responsible for operational guidance
 - Nicola Martindale, Higher Executive Officer, operational support and guidance, team who was responsible for workforce planning and management information
 - Alison Murrell (nee Minards), Executive Officer, operational guidance and support team, who was responsible for detainee complaints and Freedom of Information requests
 - Nicola Johnson, Executive Officer, operational support and guidance team, who had responsibility for the co-ordination of inspection reports by Her Majesty's Inspectorate of Prisons (HMIP)
7. I have not worked at Brook House immigration removal centre and I cannot comment on the Home Office teams at Brook House during the relevant period, whether the composition, role and responsibilities of each team, or their management structure.

Assurance Reviews

8. In November 2017 I took over responsibility for the Immigration Enforcement Detention and Escorting Services Audit and Assurance Team (DESAAT). As set out in Philip Riley's first corporate statement, on-site monitoring and first line assurance functions are undertaken by the DES compliance teams in the immigration removal centres (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 Her Majesty's Inspectorate of Prisons for England and Wales (HMIP).
9. As part of my role I approve all the DESAAT reports prior to wider dissemination across the business. I agree the terms of reference for each review and will undertake quality assurance of the draft reports, including a review of the quality of the drafting and providing feedback on the content.
10. The DESAAT assurance programme previously included on-site quarterly assurance reviews at each IRC across the estate, reviewing progress made by the centre supplier against HMIP and Independent Monitoring Board (IMB) accepted local recommendations.
11. In respect of *Assurance Review Gatwick IRCs - Brook House, January 2018* [HOM000802] DESAAT carried out this review onsite at Brook House IRC in January 2018, looking at all 24 accepted recommendations owned by the centre supplier. Of these recommendations one was considered 'complete' by the centre operator, 11 as 'complete and ongoing' and 12 as 'ongoing'. After the review DESAAT reverted the status of one recommendation to 'ongoing' from 'complete and ongoing' with no suggested changes to the status of the other recommendations. The summary noted that there had appeared to be little progress from the previous DESAAT review five months earlier. The report was emailed to Michelle Smith on 31 January 2018, requesting that she discuss the contents with her on-site team to make them aware that they should be working with the supplier to ensure that progress was made in areas which were not yet complete. I understand that a copy of the report was sent separately to G4S.

12. The DESAAT *Assurance Review of Brook House IRC* [HOM000800] was undertaken on-site at Brook House IRC by DESAAT in May 2018. The review considered 14 accepted local recommendations owned by the centre supplier. Of these one was considered ‘complete’ by the centre operator, four as ‘complete and ongoing’ and nine as ‘ongoing’. Following this review DESAAT changed the status of one recommendation from ‘ongoing’ to ‘complete and ongoing’ and made no other changes to the status of the remaining recommendations. The review found that there continued to be little progress against delivery of the HMIP recommendations as set out in the published service improvement plan in March 2017 following HMIP’s inspection in 2016. The report was emailed to Michelle Smith on 6 June 2018, requesting that she discuss the contents with her on-site team to make them aware that they should be working with the supplier to ensure that progress was made in areas which were not yet complete. I also forwarded a copy of the report to John McTaggart who was covering the role of Head of Detention Operations. A copy of the report was sent separately to Lee Hanford and Steve Skitt at G4S on 6 June 2018. In June 2018 DESAAT were consulted by Michelle Smith on the content and format of the Brook House compliance team assurance checklists.
13. As set out in the general observations section of the report, Gatwick was the first location to work with the new Immigration Enforcement IRC model with the roll out of Pre-Departure teams which DESAAT considered left them at somewhat of a disadvantage as the “pilot”. The high number of staff within the compliance team new to a contract monitoring role, coupled with a lack of formal training in these areas, this has, DESAAT believe, contributed to a lack of engagement over areas such as HMIP and IMB.
14. The DESAAT *Assurance Review of Brook House* [HOM002156] was undertaken on-site by DESAAT in January 2019 and reviewed HMIP and IMB recommendations which had been accepted by the Home Office, as well as centre-specific recommendations from the Prisons and Probation Ombudsman and the Home Office Professional Standards Unit that the supplier had recorded as being completed. The review also considered progress against some DESAAT recommendations made following thematic reviews into areas including Training and Room Sharing Risk Assessments (RSRA) in addition to previous DESAAT assurance reviews.

15. As set out in the summary of the document DESAAT found that although progress had been made in some areas, there was one area where progress had stalled. This was in relation to the operation and monitoring of the Safer Community Helpline, where it is noted that the DESAAT made a telephone call to the Gatwick Safer Community mobile telephone number and no response had been received. Due to the seriousness of the issue a specific recommendation was made by DESAAT on this point within the report. The report was sent to Michelle Smith as the Gatwick Delivery Manager on 31 January 2019 requesting she discussed the contents with her on-site team to make them aware that they should be working with the supplier to ensure that progress is made in areas which are not yet complete. The report was sent separately to Phil Wragg, the G4S centre manager, on 31 January 2019.

Third Party Recommendations Reports

16. As part of their wider assurance role DESAAT also produced quarterly reports which collated information from IRC suppliers and the relevant Home Office Delivery Managers about estate-wide accepted recommendations set out in inspection reports, including IMB and HMIP.
17. The DESAAT *Third Party Recommendations Report: Immigration Removal Centres* [HOM000819] covered the period from 1 July 2017 to 30 September 2017 included a section on Brook House IRC. The estate-wide report was sent to Clare Checksfield by DESAAT on 13 October 2017, copying in wider Home Office colleagues including Delivery Managers.
18. The DESAAT *Third Party Recommendations Report: Immigration Removal Centres* [HOM000818] covered the period from 1 October 2017 to 31 December 2017 and included a section on Brook House IRC which was provided by Michelle Smith as the Home Office Delivery Manager for the centre. The estate-wide report was sent to Clare Checksfield by DESAAT on 1 February 2018, copying in wider Home Office colleagues including Delivery Managers.

Whistleblowing Report

19. In August 2019 Alan Gibson commissioned DESAAT to undertake a short internal review of the whistleblowing arrangements in place across the immigration detention estate. I provided input into the terms of reference for the review and quality assured the draft report. The 3-month review covered the period August to October 2019 and included input from Home Office Immigration Enforcement staff, supplier and healthcare staff.
20. The review found that a high number of supplier and Home Office staff were aware of the importance of whistleblowing, although improvements could be made to how whistleblowing should be used in practice. All suppliers had whistleblowing policies in place, although some were out of date or did not reflect more recent staff communications on whistleblowing. In addition, each stakeholder working onsite in the IRC (for example healthcare, non-governmental organisation and property subcontractors) had their own whistleblowing policies and respective reporting chains. The lack of a single overarching whistleblowing policy across the estate meant that staff were unsure how to report concerns about staff outside of their own organisation meaning that chances for the early reporting of issues could have been missed.
21. A new Detention Services Order (03/2020) 'Whistleblowing – The Public Interest Disclosure Act 1998 (c.23)' was published on 15 July 2020 setting out guidance for both Home Office staff and our suppliers on whistleblowing procedures.

Detention Services Orders

22. The Home Office has issued and published a suite of guidance and instructions on matters concerned with the operation of IRCs and the treatment of detained individuals to those working in the detention estate and apply to Home Office Immigration Enforcement staff, custodial and healthcare staff. The Detention Services Orders (DSOs) are kept under regular review, with individual DSOs being updated from time to time as appropriate, withdrawn when no longer necessary, and new DSOs added as and when required. I have oversight of the team who are responsible for the development and review of many of the DSOs and who provide operational input into policy-led guidance.

23. There are currently 54 published DSOs, owned by either DES or Detention Policy, and as part of my role I review draft guidance, give advice to my team on content, consultation processes and provide input on occasion. I attach a table that provides details of the changes to a number of Detention Services Orders [HOM0332134].
24. As I did not work at Brook House I am unable to comment on the effectiveness of any Detention Services Order at Brook House between April and August 2017 and have no recollection of being made aware of any concerns about the operation of any Detention Services Order at Brook House over the relevant period, including those which the Inquiry has asked about (DSO 14/2012 *Management of age dispute cases*, DSO 01/2016 *Sharing Medical Information*, DSO 06/2013 *Reception, Induction and Discharge Supplementary Guidance and Checklist*, DSO 06/2008 *ACDT July 2008*, DSO 04/2020 *Mental Vulnerability and Immigration Detention Non- clinical guidance July 2020*, DSO 08/2016 *Management of Adults at Risk in Immigration Detention July 2018*, DSO 09/2016 dated 06/12/2016 in relation to Rule 35, DSO 09/2016 dated March 2019 in relation to Rule 35, DSO 03/2013 *Food and Fluid Refusal*, DSO 03/2017 *Food and Fluid Refusal*, DSO 02/2017 *Rules 40 and 42*).

Policies

25. I am asked about the following Serco and local Brook House IRC policies, and whether they operated effectively at Brook House IRC between April and August 2017 or do so now: Detainee Reception and Departures [CJS006045], Detainee Admissions and Departures Brook House IRC [CJS006046], Suicide Prevention and Self-harm Management policy [CJS006380], the E-Wing Policy [CJS006043], the Removal from Association Policy [CJS000725], and the Temporary Confinement Policy [CJS006041]. I cannot recall having seen these documents before and as such I am unable to comment on their operation at Brook House IRC. I am unable to comment on the Serco Vulnerable People Strategy [SER000038] and the Serco Food and Fluid Refusal Policy [SER000053] as the Inquiry has not made these documents available.

Age Dispute

26. As set out in email [CJS000808] I emailed Bryony Tedder at G4S at 09.01 on 30 August 2017 to ask for contact details for Stewart Povey who was given as the G4S contact point for the age dispute review and Bryony responded with his contact details. I received an

email from Stewart Povey at 12.02 on 30 August [HOM0332137] which set out a timeline for the case of [D852] I responded to Mr Povey to query whether a detainee custody officer (DCO) had submitted a Part C form when the individual claimed to be 13 [HOM0332137]. I do not recall receiving a response from Mr Povey and cannot find a record of any response to this query.

27. On receipt of the timeline from G4S I worked with various Home Office casework leads to draft a summary of [D852]'s case, entitled *Case Summary - [D852]* [DN exhibit ref – Annex E only]. As summarised in that document:

He first claimed to be 14 years of age only after he entered detention; however the Home Office did not accept his claim as officials remain in possession of his expired passport showing his true age. His legal representatives have claimed that this is a forgery. He was released from detention on 13 May 2017 following a court order and was placed into social services care until a Merton Compliant Age Assessment could be completed. His asylum claim is currently being considered by UKVI.

28. Home Office records indicate that [D852] was ultimately assessed as being over 18 by West Sussex Social Services and was notified of this outcome in December 2017.
29. Following the Supreme Court Judgment in the case of BF Eritrea, the Home Office published updated Assessing Age Guidance on 14 January 2022. Following this guidance, Home Office officials will make an assessment of whether or not the individuals physical appearance and demeanour very strongly suggests they are significantly over the age of 18. A decision that an individual appears to be significantly over 18 requires agreement from a second officer, of at least Chief Immigration Officer grade or equivalent, who has independently assessed the age disputed individual and concurs with the assessment of the first officer. Where these criteria are met the individual will be treated as an adult for immigration purposes. Where the 'significantly over 18' threshold is not met they will be afforded the benefit of the doubt pending further assessment by a local authority in a Merton compliant age assessment.

30. Home Office policy is to give considerable weight to a decision on age made by social workers, recognising the particular expertise they have through working with children on a daily basis. Our policy is to give prominence to a Merton compliant age assessment, and it is likely that the Merton compliant age assessment will be decisive in most cases.
31. Through the Nationality and Borders Bill, the Government is also bringing forward a number of significant reforms to the age assessment system. This includes creating a decision-making function in the Home Office comprising a team of qualified social workers, who will have the power to conduct Merton age assessments upon referral from a local authority. The reforms also include the establishment of a right of appeal for those who receive an age assessment decision they wish to challenge. The Bill also includes a power to make regulations in which the Secretary of State can specify a method (or methods) of scientific age assessment.

Adults at Risk Policy

32. In relation to the Adults at Risk (AAR) policy that was in place during the relevant period I am unable to comment on the impact of the implementation of the Adults at Risk policy on caseworkers.
33. The Home Office AAR policy came into force in 2016 and was supported by DSO 08/2016 which sets out guidance for staff in the immigration detention estate. The aim of the policy is to strengthen the existing presumption against the detention of those who are particularly vulnerable to harm in detention. I believe that the policy helped protect vulnerable people in detention during the relevant period (and indeed continues to do so in its current form). One of the changes introduced by the policy meant that caseworkers were informed when there was a change to the physical or mental health of a detained individual, or a change in the nature or severity of their identified vulnerability, to enable them to undertake a review of the appropriateness of the individual's continued detention at the earliest opportunity. A number of improvements have been made to AAR since 2017, informed by independent reviews by the Independent Chief Inspector of Borders and Immigration. The current AAR DSO is under review.

Panorama

34. I have been asked specifically to comment on an email from Clare Checksfield [CJS000801]. The email sets out some background on the Panorama programme and the expectation that the story would be in the public domain on 4 September. It was sent to the supplier centre managers at the other immigration removal centres in order to update them on the situation and enable them to ensure appropriate staffing in case of unexpected protests. As Ms Checksfield was travelling, she asked me to forward the email with a message that G4S would be taking press action the following day [HOM0332136].
35. I did not take any specific action in response to the email, however as briefing lead in DES I was commissioned to co-ordinate the development of a Q&A document in case of media queries and draft documents in case of an urgent question in Parliament which I sent to Ms Checksfield around 16.00hrs on 31 August 2017 [HOM0332135]. It is important that any information that the Department provides to Parliament or the media is accurate and having briefing documents containing key information to hand meant that we would be able to reply to any request with accurate information in a timely manner.
36. The document entitled “Integrity, Professional Standards and Prevention: Learning the Lessons from Brook House” at HOM0331995 provides details of the G4S commissioned Lampard Review and refers to PSU and police investigations. I do not recall playing any role in these investigations at Brook House other than responding to data requests.

<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	Frances Hardy

Signature	Signature
Date	28 February 2022