

## **BROOK HOUSE INQUIRY**

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### **First witness Statement of Andy Kupoluyi**

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I provide this statement in response to a request under Rule 9 of the Inquiry Rules 2006 dated 19 February 2022.

I, Andy Ayodeji Kupoluyi, DPA now working for the Home Office at the Foreign National Offender Returns Command, Enforcement and Return Operations, 13<sup>th</sup> Floor Lunar House, 40 Wellesley Road, Croydon CR9 2RY 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 and to a limited set of documents drawn to my attention by those advising me in the period provided for drafting this statement, all of which had been made available by 22 March 2022. 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 worked for the Home office since 2001. I entered at AO (Administrative Officer) grade, and worked my way up to EO (Executive Officer). Initially I worked within a medical team, dealing with cases involving Foreign National Offenders (FNOs) with serious medical issues. I was there for between 4 and 5 years. I then moved to a settlement team, dealing with people being granted Indefinite Leave to

Remain. From there I moved to a team dealing with travel documents for applicants who have refugee status. I then moved to Criminal Casework at Apollo House in November 2011. I was new to casework at that time. My role was to deal with FNOs who were detained. I have set out more detail in relation to my role below. In June 2018, I began a period of absence due to sickness, and when I returned to work I returned to a different team. Since June 2018, I have had no dealings of any kind with casework relating to detained persons, or any kind of decision making relating to detention.

4. I worked on D1275's case from 26 October 2016 (following the completion of his custodial sentence) until 26 June 2018.
5. During the Relevant Period my role was to progress the deportation of individuals such as D1275, who had been convicted of serious criminal offences, or who were prolific offenders. I was an Executive Officer (EO) grade. I did not therefore have any role in developing policy or any oversight or wider role than as a caseworker.
6. 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. This would again be checked and authorised by a senior member of my team, normally an HEO or SEO.

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

#### **General**

- 8. I left my role within the Criminal Casework Directorate on 26 June 2018. I now work for the Foreign National Offender Returns Command in a role very similar to my previous one in Criminal Casework Directorate. The main difference is that instead of progressing the deportation of individuals who are detained, I now progress the deportation of those on immigration bail that are currently reporting at an IRC. Since leaving my role in 2018, I have not had access to records and documents from my role in the Criminal Casework Directorate, and my recollection of that time, in particular of individual cases, and the precise details of rules, policies and procedures, is very limited.
- 9. I am asked to provide details of the policies and procedures in place during the Relevant Period in relation to the undertaking of detention reviews. Due to the length of time which has elapsed since leaving my role, I am unable to remember the exact details of relevant policies and procedures. I was aware that detention was

to be used sparingly and for the shortest period possible. Policy required that detention be subject to regular review, with a schedule setting out how often those reviews should take place (at a minimum), and what grade the member of staff authorising the detention must be.

10. I understood the factors to be considered when making detention decisions to include the possibility of removal (and the timeframe within which removal is expected to be possible), release options (including the availability and suitability of bail addresses, and alternatives to detention which fulfil immigration control requirements), information from police and social services about the risks posed by an individual, as well as a detained person's medical history, background, family and personal circumstances, and any vulnerabilities. It is necessary that when making detention decisions, immigration factors are weighed against the welfare of the person subject to detention. This is done by looking at all of the factors which are relevant to a detained person's situation in the round.

11. 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 bed space 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.

**Adults at Risk Policy and Rule 35**

12. I am asked to consider the Adults at Risk Policy (CJS000731) and the DSO in relation to Rule 35 of the Inquiry Rules 2006 (HOM002591) which applied in the Relevant Period.
13. My understanding of these policies, their purpose and application to detained persons and the decisions made by Home Office case workers regarding detention was that those policies operated to determine whether an individual would be particularly vulnerable to harm in detention and, if so whether they should be detained or continue to be detained for the purpose of Immigration removal.
14. I do not recall ever receiving or dealing with a Rule 35(1) or a Rule 35(2) report. In relation to Rule 35(3) report, I recall that upon receipt of a Rule 35(3) report, casework would have two days in which to make a decision on continued detention. We would look at the information provided, including the body map and the view of the Doctor on whether the detained person was fit for detention. If the Doctor was of the view that the detained person was fit for detention, I would refer the matter to a senior caseworker to consider whether to authorise continued detention. If the Doctor was of the view that the detained person was not fit for continued detention, I would begin a release referral. I recall that this was done in every case

where a Doctor stated on the face of a Rule 35(3) report that the detainee was not fit for continued detention, regardless of immigration factors.

15. At this stage, and given that I have not worked in the Criminal Casework Directorate for almost 4 years, I am unable to recall what policies and procedures were in place to follow up with the General Practitioner authorising a Rule 35 report where the report was considered incomplete or inadequate, or for monitoring the quality of the Rule 35 reports received from Brook House.
16. I have also been asked to consider the Adults at Risk Policy (SER000270), the Detention Services Order (DSO in relation to Rule 35 (CJS007075) and DSO 04/2020 "Mental vulnerability and immigration detention: non-clinical guidance" from July 2020 (PPG000101) which currently apply.
17. By the time these changes were made, I had left my role within the Criminal Casework Directorate. I would repeat that I did not at any time have any role in developing policy, or any responsibility or oversight beyond my role as a caseworker. I do not feel able to comment upon the changes made to those policies.

## **D1275**

18. I have been asked to consider the following documents, which I have reviewed for the purposes of writing this statement: HOM0332103, CJS007075, CJS000731, HOM002591, HOM007353, HOM007466, HOM007535, HOM007570, HOM007583, HOM007670, HOM007735, HOM007802, HOM007752, PPG000101, SER000270.

## **Chronology**

19. I have been able to put together a chronology from information contained within the detention reviews dated 06 March 2017 (HOM007353) to 17 October 2017 (HOM007735). I have no memory of this particular case. All of the information I

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have been able to provide about this case has come from documents (in particular the Detention Reviews) provided by the Inquiry.

20. D1275 claimed to have entered the United Kingdom in a lorry. He claimed asylum upon being discovered and registered as an illegal entrant. His asylum claim was refused in December 2012. Between October 2015 and September 2016 D1275 was convicted of six offences in the United Kingdom, including **Sensitive/Irrelevant** **Sensitive/Irrelevant**
21. At the end of his prison sentence in October 2016 at HMP Leeds (Armley) D1275 was transferred to Brook House IRC where he was detained under immigration powers and remained in immigration detention until June 2018 (for 20 months). His continued detention was reviewed and authorised as required, as discussed in more detail below.
22. On 19 January 2017, whilst in Immigration Detention, D1275 was charged with an **Sensitive/Irrelevant** and due in court on 20 February 2017. However, D1275 failed to attend as he refused to come out of his room. D1275 was convicted in his absence and **Sensitive/Irrelevant**
23. The Special Conditions note (on the case information database CID) indicates D1275 appeared to be assaulted on 24 January 2017 on the detention estate and had bruising around his left eye and face. Healthcare addressed his health needs and ensured he remained fit for ongoing detention.
24. On 27 June 2017 a medical consent form was sent to Brook House IRC. At that time, Risk indicators and risk Level, according to the Adult at Risk policy, was currently being monitored, D1275 did not claim any medical condition. D1275 had continuously been disruptive in the detention centre, particularly towards females and placed into CSU on rule 40 due to risk to detainees and staff. An email received on 28 March 2017 from Doctor Hillman confirmed that there is no evidence D1275

has a major mental health disorder. On 29 June 2017 email was sent to Brook House healthcare requesting a medical report for D1275. Due to his disruptive behaviour in the detention centre, D1275 was referred to the mental health team. D1275 was given multiple medical appointments but D1275 did not attend any of the appointments given to him. D1275 refused to attend his appointments, or to co-operate with investigations into his health.

25. On 25 October 2017 a release referral under contact management was completed to be sent to the Senior Executive Officer (SEO) for onward transmission to the Assistant Director (AD) for approval and onward submission to the Strategic Director (SD). I understand that it was difficult to source a suitable release address due to his being on the [ Sensitive/Irrelevant ] and there being an injunction held against him by Merseyside police. He was released on 26 June 2018.

#### **Detention Review History**

26. I completed the reviews of D1275's detention on 6 March 2017 (HOM007353), 5 April 2017 (HOM007583), 25 August 2017 (HOM7570), 20 September 2017 (HOM007802), and 17 October 2017 (HOM007735). For each review, my recommendation to continue to detain D1275 was approved by a more senior member of Home Office staff, as set out above.
27. As with the Chronology above, the below is from records, as I have no memory of this particular case. There may well be records that I am not currently aware of and it has not been possible in the very limited time to research this case in any depth.
28. According to records, the factors which I considered in reviewing D1275's detention included his extensive history of offending, including [ Sensitive/Irrelevant ] the risks of re-offending, absconding, and the risks he posed to others. In considering continued detention I was aware of the presumption of liberty but considered this to be outweighed by the risks posed by D1275. I was also aware of



information from CID notes dated 30 March 2017 [HOM007752] confirming concerns that D1275 could pose a serious risk to both male and female members of staff and detainees, which, combined with his offending history, suggested that he would also pose a serious risk to members of the general public. I considered that his risk of causing harm to others was high.

29. At the time of the detention reviews on 6 March 2017 (HOM007353) and 5 April 2017 (HOM007583), there were no exceptional factors known in D1275's case which would make him unsuitable for detention. By the time of the detention review on the 25 August 2017, D1275 had been assessed to be an Adult at Risk Level 2. However, he had also been assessed as suitable for detention. I was aware of the view of Dr Hillman which was that there was no evidence that D1275 had a major mental health disorder, and there was no other indication that he was unsuitable for detention.
30. At all stages, when carrying out reviews of D1275's detention, I was aware of the Adults at Risk Policy (CJS000731), and at all relevant times I applied it to D1275's case. It is important to note that from 7 July 2017 the Home Officer were attempting to secure a release address for D1275, which was very challenging because of the risks he posed to others. However, throughout the Relevant Period there was no evidence to demonstrate that D1275 was not suitable for detention, and in light of the exceptional circumstances of D1275's case, my superiors were prepared to continue to authorise D1275's detention.
31. Between October 2016 and through the Relevant Period I was satisfied that D1275's health was being appropriately managed by healthcare as part of the Adults at Risk policy because since the request of the medical report for D1275 from Brook House IRC in June 2017, we continued to liaise with medical centre in Brook House IRC, we also continued to liaise with D1275 in providing a release address. Since D1275 was under the care of the medical team at Brook House, I would have considered that they would inform the Home Office if D1275's health was deteriorating or could not be appropriately managed in detention.

32. As the 6 March 2017 detention review makes clear (HOM0073535), D1275's mental health was monitored. As he was under the care of (and known to) the Brook House medical team I would have expected them to inform the Home Office if D1275's mental health deteriorated.
33. I am asked what steps were taken to organise a full mental health assessment to be carried out on D1275 before his release back onto a normal residential unit were. The mental health assessment is carried out by Brook House health centre and updates are given via CID special screen and for any report given to the Home office. D1275 needs to give consent for the Home office to have access to his medical records, and the Home Office would not be responsible for either the organisation of D1275's full mental health assessment, or his release onto a normal residential unit.
34. As stated in D1275's CID notes (HOM007752\_64), D1275 spent a considerable period of time in Rule 40 while at Colnbrook, causing some concerns to be raised. At that time, the notes record that the Contract Monitor (Donna Hagan) recommended that he be moved to another centre, while release from detention was considered. It would appear that this led to his move to Brook House.
35. The Inquiry has asked me about a line which appears in several detention reviews (on 27 June 2017 (HOM007466), 25 August (HOM007570), 20 September (HOM007802) and 17 October (HOM007735), which states "*I am therefore authorising a period of 24 hours in Rule 40 for the centre pending a full mental health assessment to be carried out on D1275 before his release back onto a normal residential unit.*" I confirm that I was not the person responsible for authorising D1275's being held in Rule 40, and this line appears to have been cut and pasted from an entry in D1275's GCID notes made by EO Goldhill at Colnbrook IRC on 27 March 2017 (HOM007752\_46).
36. I have been asked to set out the basis for D1275 being identified as a Level 2 Adult at Risk on 31 May 2017, according to his detention history (HOM007542\_6), and whether this was relayed in the detention review dated 30 May 2017. I have not

been provided a copy of the detention review dated 30 May 2017 but a summary of that review is contained at HOM007466\_0004. It appears from that summary that I undertook a review of D1275's detention on 30 May 2017 and that his ongoing detention was authorised by a superior on 31 May 2017. As part of that review, I would have likely discussed D1275's behaviour with my superior, and as a result of his highly disruptive behaviours in the detention centre, particularly towards female immigration officers, we would have decided to classify him as Adults at Risk Level 2. Following that discussion, I would have updated the special conditions tab on CID on 31 May 2017, to record this.

37. I have been asked to comment on the basis for D1275 being identified by A Rajaratnam as a Level 2 Adult at Risk in the 27 June detention review (HOM007466). For obvious reasons I am unable to comment on the thought processes of other caseworkers. I identified D1275 as a Level 2 Adult at Risk in the 7 July monthly progress report (HOM007670) on the basis that D1275 had been demonstrating increasingly highly disruptive behaviours in the detention centre, particularly towards females.

38. I have been asked to comment on the basis for D1275 being identified by me as a Level 1 Adult at Risk in the 25 August detention review (HOM007570). This is a typographical error on the indicator, it should be Level 2 and not Level 1, but in any event my comments under section 6 of the Vulnerability issues according to the Adult at risk policy confirm that level 2 is accurate. The basis for D1275 being identified by me as a Level 2 Adult at Risk in the 25 August monthly progress report (HOM007355) was that D1275 had been demonstrating increasingly highly disruptive behaviours in the detention centre, particularly towards females.

39. I am asked to comment on the basis for ongoing detention during the Relevant Period. I am informed by my representatives that decisions to detain are beyond the scope of this Inquiry. However, I would emphasise that D1275 presented a high risk to the public due to the risks of him re-offending, and his patterns of offending behaviour, as well as behaviours which were observed in detention. Additionally, it

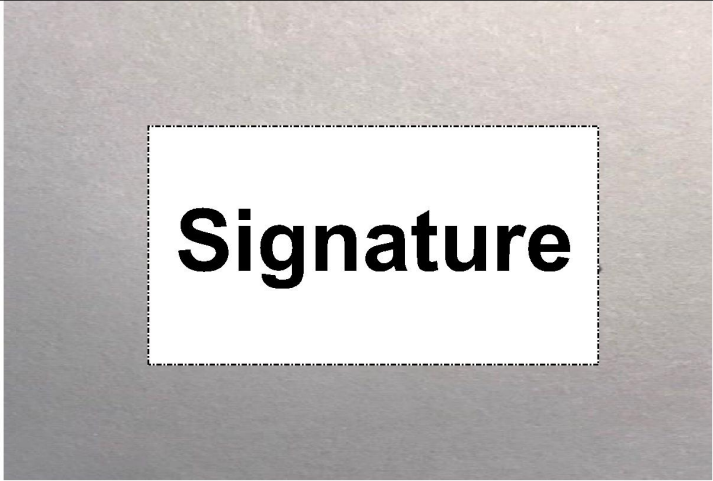
was extremely challenging to source appropriate bail accommodation for him, due to his own behaviours and offending history. It is worth noting that many of the same behaviours which led to him being categorised as an Adult at Risk Level 2 were the same behaviours which made it very difficult to safely release him, and there was no evidence available at the time which demonstrated that D1275's health could not be appropriately managed in detention.

40. On page 4 of the detention review dated 20 September 2017 (HOM007802), I note that a GCID entry has been made by staff at Brook House on 4 September 2017 to state that D1275 has been placed on a Supported Living Plan following the BBC Panorama programme. By that time, a release referral had already been made and was being considered by my superiors. However, because this information could be relevant to the decisions being made by my superiors about D1275's release, on 06 September 2017, I updated the release referral for the SEO in-box together with the address.

41. I consider that I did correctly apply the Adults at Risk Policy in relation to D1275 at each stage of reviewing his decision. Although D1275 was assessed as an Adult at Risk level 2, I considered from a review of the evidence available that D1275's health was being appropriately managed in detention, and work was ongoing to source a release address for him.

<b><u>Statement of Truth</u></b>
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.

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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	Andy Kupoluyi
Signature	
Date	24/03/2022

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