

## **BROOK HOUSE INQUIRY**

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### **First Witness Statement of Mr John Wadham**

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I provide this statement in response to a request under Rule 9 of the Inquiry Rules 2006 dated 4 May 2021.

I, John Wadham c/o HM Inspectorate of Prisons 10 South Colonnade, 3rd Floor, Canary Wharf, London E14 4PU, will say as follows:

#### **Introduction**

1. I was appointed as Chair of the UK's National Preventive Mechanism ("UK NPM") in April 2016. I make this statement in this capacity. A draft of this statement has been provided to the 21 NPM members and a number of amendments were made to it as a result.
2. The two UK NPM members that were involved in inspecting and monitoring Brook House, HM Inspectorate of Prisons ("HMIP") and the Independent Monitoring Board ("IMB"), have been designated Core Participants in the Inquiry. One UK NPM member, the Care Quality Commission ("CQC") is providing a witness statement to the Inquiry. The evidence of these three UK NPM members is being provided separately to this Inquiry and this statement on behalf of the UK NPM is not made on behalf of these three NPM members.
3. Firstly, it is important to clearly outline the UK NPM's structure and purpose. The UK NPM as a whole is composed of 21 institutional members, based in the four nations of the UK, as well as a 'Chair' and 'Secretariat' function. The United Nations' Optional Protocol to the Convention Against Torture and Other Cruel,

Witness Name: John Wadham  
Statement No: First  
Exhibits: **INSERT**

Inhuman or Degrading Treatment or punishment (“OPCAT”) does not place any obligations directly on the UK NPM Chair and Secretariat but on the United Kingdom itself. It is the 21 UK NPM members themselves who individually have the powers necessary to carry out the role of a National Preventive Mechanism, as outlined in OPCAT Article 19. Therefore, for clarity:

- a. The UK NPM is an unincorporated association. Neither the 21 members collectively nor the Chair or Secretariat have an ‘oversight’ or supervisory role over each other. The UK NPM functions as a facilitator for debate and joint working and a catalyst for discussion amongst the 21 NPM member organisations.
- b. Neither the Chair nor the Secretariat have any statutory footing or any other powers of oversight.
- c. The UK NPM as a whole is not itself an independent monitor of immigration detention. It is the 21 NPM members who are each individually charged with specific functions in relation to specific places of detention. These functions are usually set out, with any restrictions, in the legislation which establishes them.
- d. The UK NPM attempts to promote a forward-looking remit – the prevention of ill-treatment – because OPCAT places emphasis and obligations on the State Party to prevent abuses from occurring. This means that the function of the UK NPM and its members is different to that of bodies who deal with complaints of ill-treatment after the event. My role as UK NPM Chair, and that of the Secretariat, has therefore focused on encouraging the prevention of ill treatment in the future through discussion and information-sharing between members, as opposed to leading efforts which seek to analyse specific situations where ill-treatment has occurred in the past.

4. During Counsel to the Inquiry's opening speech on 23 November 2021, the UK NPM was described as a body that is responsible for the oversight and monitoring of Brook House. I hope the above paragraph clarifies the scope of the UK NPM's functions to the Inquiry – namely, that OPCAT places obligations on the State Party to provide powers to NPMs in relation to specific places of detention. It does not place any powers on the UK NPM as a whole (including its Chair and Secretariat).

### **Legal framework**

5. The United Nations' OPCAT aims to prevent torture and other ill-treatment by State Parties establishing or designating National Preventive Mechanisms which make regular visits to all places of detention within the jurisdiction and control of the States Parties which have ratified the Protocol. OPCAT is unique among international conventions and protocols in that it does not promote any new specific norm. Instead, it strengthens national implementation of the United Nations Convention Against Torture (UNCAT) by establishing a system of regular visits to all places where persons are deprived of their liberty by independent international and national monitoring bodies. It also uniquely focuses on *prevention* rather than taking action after violations have occurred (i.e. it is forward-looking).
6. OPCAT establishes an international expert body within the UN, the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT).<sup>1</sup> It also requires States Parties to establish or designate National Preventive Mechanisms based on a set of criteria as outlined in OPCAT articles 17-21. As above, the obligations placed on the UK as a State Party by

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<sup>1</sup> Information about Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) <https://www.ohchr.org/en/hrbodies/opcat/pages/opcatindex.aspx>

OPCAT relate to the responsibilities of those designated by the UK – the *NPM members* - as opposed to the UK NPM as a whole or its Chair and Secretariat. Article 19 of OPCAT therefore places an obligation on the UK to give powers to the 21 designated UK NPM members within their respective detention environments. This allows them to undertake the following:

- a. regularly examine the treatment of persons deprived of their liberty in places of detention with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;
  - b. make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;
  - c. submit proposals and observations concerning existing or draft legislation.
7. The SPT (as outlined in Article 11 of OPCAT) also has the mandate to undertake country visits and make recommendations to States Parties concerning the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment and to make recommendations and observations to the States Parties with a view to strengthening the capacity and the mandate of the national preventive mechanisms.

#### **Role of the Chair of the UK NPM**

8. I was appointed by agreement of all UK NPM members in April 2016 and I took up the role as the UK NPM's first Chair for an initial fixed term of two years in May 2016. The role of the Chair has no precise or formal job description, and has

4

Witness Name: John Wadham  
Statement No: First  
Exhibits: **INSERT**



no powers, or immunities. I was not recruited as a statutory appointment or by government by way of the 'Public Appointments' procedures but instead as a non-executive, working to Civil Service good practice for fair and open recruitment. My term in office was renewed in October 2017 for a further four years, expiring at the end of April 2022. The original and short note for the first Chair, suggested that the post would require fifteen days' work over the course of each year, but I estimate that I devoted 45 days to the role in my first year. I received no fee for this work until April 2019 when the Ministry of Justice agreed a daily fee for me to act as Chair for 48 days each year. The capacity of the Chair of the UK NPM has therefore evolved over time, but the role remains part-time and has no powers.

9. The role of the Chair of the UK NPM involves three functions, which I carried out during the relevant period in question. These are to:
  - a. chair UK NPM Steering Group meetings three to four times a year and UK NPM business meetings twice a year;
  - b. support UK NPM members individually and collectively in developing and implementing UK NPM work and in fulfilling their UK NPM responsibilities;
  - c. speak publicly on behalf of the UK NPM and represent the UK NPM at meetings with external stakeholders such as governments and international bodies.

The work of the UK NPM as a whole is summarised by each year's annual reports, which are all available on the UK NPM website.<sup>2</sup>

### **Role of UK NPM Secretariat**

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<sup>2</sup> NPM Publications and Resources: <https://www.nationalpreventivemechanism.org.uk/publications-resources/>

10. The UK NPM Secretariat currently consists of a full-time Head of Secretariat, a full-time Assistant Coordinator (currently vacant) and a part-time Scottish Coordinator. As the UK NPM itself is not a legal entity, the NPM Head Secretariat staff and Assistant Coordinator are employed by the Ministry of Justice on behalf of the NPM, based at HMIP. The Scottish Coordinator is employed separately by the Scottish Government on behalf of the NPM, based at HM Inspectorate of Prisons for Scotland (HMIPS), an NPM member. The Secretariat undertakes the following activities:

- a. promotes cohesion and a shared understanding of OPCAT among UK NPM members by organising business meetings and coordinating the work of an annual business plan which includes joint work of the UK NPM members.
- b. encouraging collaboration and the sharing of information and good practice between UK NPM members;
- c. facilitating joint activities between members on issues of common concern;
- d. liaising with the United Nations Treaty Body, the SPT, and other relevant international human rights bodies;
- e. sharing experience and expertise between the UK NPM and National Preventive Mechanisms in other States;
- f. representing the UK NPM as a whole or in thematic areas, where it is considered appropriate, to government and other stakeholders in the UK;
- g. preparing the annual report and other publications.

## **Funding**

11. Funding for the NPM Chair and Head of Secretariat comes from the ‘International Human Rights Policy team’ of the Ministry of Justice. The funding is however, delegated to the Head of the NPM Secretariat by the Ministry of Justice and is supported by HMI Prisons finance staff. Originally the costs of the Secretariat were provided for as part of the HMIP budget (although the Ministry of Justice included a specified amount for the UK NPM as part of its overall funding for HMIP). In October 2019 the UK NPM Head of Secretariat became the UK NPM budget holder and the budget is therefore no longer directly part of HMIP’s budget. The part-time Scottish Coordinator is funded separately by the Scottish Government, based at HMIPS.
12. The Chair and Secretariat report to the UK NPM Steering Group (which meets quarterly) and which comprises five representatives of the UK NPM membership. The selection of Steering Group members aims to take into account the different types of places of detention visited and the different jurisdictions in which the members operate as well as the nature of the bodies themselves (i.e. lay and professional bodies). It is impossible for Steering Group members to represent all the different types of places of detention visited, but some diversity is sought.<sup>3</sup> The Chair and Secretariat are also responsible to the wider UK NPM membership which meets once every six months at a Business Meeting, although the COVID pandemic has prevented face to face meetings from occurring over the last two years.

## **History of the UK NPM**

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<sup>3</sup> NPM Steering Group: <https://www.nationalpreventivemechanism.org.uk/about/governance-and-structure/npm-steering-group/>

Witness Name: John Wadham  
Statement No: First  
Exhibits: **INSERT**

13. The UK NPM members were designated for the purposes of OPCAT only through a Ministerial Statement made by then Minister of State at the Ministry of Justice, Michael Wills, on 31 March 2009 (and subsequently communicated to the SPT). No legislation or other formal or informal document or process was created or enacted to establish the UK NPM, and written Ministerial Statements are still the only basis for the UK NPM's existence. In the Ministerial Statement, the Government stated the UK NPM was being created so 'that the requirements of OPCAT be fulfilled in the UK by the collective action of existing inspection bodies.' The Government designated 18 bodies to be part of the UK NPM and noted that new inspection bodies could be added to the UK NPM in the future.<sup>4</sup> On 3 December 2013, three new designations were made, which reflected a merger of the bodies monitoring care and social work in Scotland into the Care Inspectorate, the separate membership of Scottish Independent Custody Visitors, and the incorporation of the Lay Observers in England and Wales to reflect their OPCAT-compliant role in monitoring court custody and transfers in England and Wales.<sup>5</sup> On 12 January 2017, the Independent Reviewer of Terrorism Legislation was also designated in view of his role monitoring the conditions of detention of persons detained for more than 48 hours under s.1 of the Terrorism Act 2000, bringing the membership of the NPM to 21 individual bodies. The addition of the Independent Reviewer was made in a written statement to Parliament by then Prisons Minister, Sam Gyimah MP.<sup>6</sup>

### Current position

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<sup>4</sup> Written ministerial statement – HC Col 56WS, 31 March 2009, <https://hansard.parliament.uk/Lords/2009-03-31/debates/09033129000260/OptionalProtocolToTheConventionAgainstTorture?highlight=national%20preventive%20mechanism#contribution-09033129000139>

<sup>5</sup> Fifth Annual Report of the United Kingdom's National Preventive Mechanism, 1 April 2013- 31 March 14, p 12

<sup>6</sup> Written ministerial statement – HC WS408, 12 January 2017, <https://hansard.parliament.uk/Commons/2017-01-12/debates/17011252000011/OptionalProtocolToTheConventionAgainstTorture?highlight=national%20preventive%20mechanism#contribution-32598497-7E9A-4DDD-B3AF-2184F9967CE9>

Witness Name: John Wadham  
Statement No: First  
Exhibits: **INSERT**

14. I have undertaken an information gathering exercise with the 18 NPM members who are not providing evidence separately to the inquiry. All of these members have reported to me they have no first-hand knowledge or involvement in Brook House in an inspection or monitoring capacity during the relevant period or in fact since the problems which came to light in the broadcast of the Panorama programme on Brook House. I am therefore unable to comment on the circumstances of the physical mistreatment by staff of persons detained; verbal abuse by staff of persons detained; violence or any complaints made about the healthcare provided to persons detained at Brook House during the relevant period.

### **Oversight**

15. As I have stated above, the UK NPM Chair and Secretariat have no statutory footing or powers of oversight. Neither the UK NPM as a whole, nor the Chair and Secretariat exercise any supervisory function over the members. It is the NPM member organisations which are each individually charged with being independent monitors of detention and the vast majority, outside of the three NPM members separately providing evidence to the inquiry, have no mandate to inspect or comment on immigration detention. Consequently, I have had no involvement with the oversight/scrutiny role played by HMIP or IMB at Brook House during the relevant period; I have undertaken no assessment or monitoring of the role played by HMIP or IMB during the relevant period; I have not had any specific dealings with Serco, the Home Office and the IMB about Brook House; and I have not undertaken any work with IMB/HMIP following and in light of the broadcast of Panorama. It is for these reasons that the UK NPM is also unable to comment on the efficacy of monitoring by IMB/HMIP or other bodies during the relevant time.



16. Notwithstanding the limits of its role, I believe that the UK NPM has made significant progress in the years since its establishment and that it does function as a useful facilitator for debate and joint working about key issues as well as being a catalyst for discussion in this field amongst the 21 UK NPM member organisations. UK NPM member bodies have undertaken work in the following ways:

- a. Being a part of the UK NPM has encouraged and supported several members to more fully and explicitly embed human rights within their inspection and monitoring frameworks. For example, drawing from the requirements of OPCAT, the Chief Inspector of Prisons in Scotland commissioned human rights-based standards for their inspections, which the Scottish Human Rights Commission (SHRC) advised on.
- b. The UK NPM's human rights approach has been used by UK NPM members to push for certain reforms in the legislation that governs detention. For example, CQC underlined its position as a NPM member in its engagement with the independent review of the Mental Health Act throughout 2018.
- c. UK NPM members have also helped maintain focus on detention for some organisations whose work is far broader, as OPCAT highlights the increased risk of ill-treatment within detention settings. For example, in policing, the UK NPM has helped ensure custody is kept on the agenda when other aspects of policing are being inspected.
- d. UK NPM members have used their collective expertise to focus on thematic issues across detention settings with a view to strengthening the consistency of the standards they apply. For example, in 2017 the UK NPM published guidance on monitoring isolation and solitary confinement across detention

settings.<sup>7</sup> This guidance is unique in setting out the safeguards and protections that should be applied to a potentially harmful practice and has resulted in further scrutiny of isolation and solitary confinement by some UK NPM members. For example, in 2019 the Mental Welfare Commission for Scotland issued new guidance on seclusion in mental health settings in Scotland which draws on the UK NPM's Isolation Guidance.

- e. Since UK NPM members were designated, they have used the requirements under OPCAT to identify gaps in the monitoring arrangements for detainees, one of which related to the customs custody centres operated by Border Force. Legislation was introduced in 2012 which provided for these centres to be monitored. Informed by the requirements of OPCAT, coverage has been extended to cells in courts for defendants while they wait for their hearings, medium security level units for children and young people and non-designated police cells.
- f. In 2015, UK NPM members identified that despite there being various publicly available datasets on detention populations, there was no answer to the question: 'How many people are detained in the UK?' OPCAT states that National Preventive Mechanisms should have access to such information. The UK NPM therefore undertook a data mapping project to collate data and identify gaps and omissions. As a result, two annual detention population data mapping projects have been published.<sup>8</sup>
- g. The UK NPM has undertaken collective responses on behalf of its members to policy, consultations and legislation. For example, in 2019 the United Nations Committee Against Torture (UNCAT) undertook its sixth periodic review of

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<sup>7</sup> NPM Isolation Guidance: <https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2017/02/NPM-Isolation-Guidance-FINAL.pdf>

<sup>8</sup> NPM Data Mapping Project: [https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2018/01/20180123\\_NPM-Data-mapping-2016\\_17\\_FINAL.pdf](https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2018/01/20180123_NPM-Data-mapping-2016_17_FINAL.pdf)

the UK. The UK NPM gave written and oral evidence. Few National Preventive Mechanisms have engaged with international treaty reviews. The UK NPM started doing this in 2015, with what we believe was the first ever NPM submission by a National Preventive Mechanism to the UN Human Rights Committee.

- h. UK NPM members and the Secretariat have engaged with other National Preventive Mechanisms, States and civil society around the world to share knowledge and best practice. Just this year we have shared experiences on dealing with COVID-19 in UK detention setting with both South Africa and Tunisia.

### **UK NPM materials and submissions of relevance**

17. The Secretariat and I have sought to assist the inquiry by undertaking a review of all NPM materials held by the Secretariat which may be of interest. This includes both the exact period of interest to the inquiry, namely, 1 April 2017 to 31 August 2017 as well as any information dated after this time where NPM discussion or references to Brook House were made. We identified the following references to Brook House in UK NPM materials and submissions:

- Annual report 2017-18 – see page 189,
- Annual report 2018-2019 see pages 5, 32/33<sup>10</sup>
- Annual report – 2019-2020 see pages 4, 31, 54, 55, 56.

18. The UK NPM did not hold any Business Meetings during the period 1 April 2017 to 31 August 2017. It did hold one Steering Group meeting during this time, but the concerns revealed at Brook House were not discussed. The UK NPM discussed

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<sup>9</sup> National Preventive Mechanism Ninth Annual Report 2017-18: [https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2019/01/6.5163\\_NPM\\_AR\\_2017-18\\_WEB.pdf](https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2019/01/6.5163_NPM_AR_2017-18_WEB.pdf)

<sup>10</sup> National Preventive Mechanism Tenth Annual Report 2018-19: <https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2020/03/NPM-Annual-Report-201819-WEB.pdf>

the Panorama investigation at Brook House at Business meetings in October 2017 and April 2018, following the period 1 April 2017 to 31 August 2017.

19. The following matters were discussed in light of the Panorama programme. There is little information on each of these issues and I can only recall limited background detail in some areas. What I do recall is reflected below:

- a) Article 3 compliant investigation: At the UK NPM Business Meeting in October 2017, a representative in attendance from EHRC stated that: *'EHRC will request an article 3 compliant investigation into Brook House and keep the NPM informed'*.
- b) HMIP expanded inspection methodology: The October 2017 minutes state that: *'HMIP was trailing [trialling] an expanded inspection methodology in light of Brook House. It is not yet clear what results the new methodology will have and whether or how it will be taken forward after the trial. ACTION: HMIP to update on results of utilising expanded methodology at next business meeting.'* At the next Business meeting in April 2018, it was stated that: *'PC discussed HMIP's use of an enhanced inspection methodology at Harmondsworth following the Panorama programme on Brook House. The methodology did give some additional assurance but of course is subject to resources.'*
- c) Public perceptions of inspectorates and monitors: The October 2017 minutes state under this subject that it was: *'Generally agreed that the important question was around culture and culpability of managers of centres.'* I have a limited recollection of this discussion but if I recall correctly it relates to a discussion by UK NPM members as to how the public profile or reputation of inspectors and monitors could be perceived by the public in light of the Panorama investigation. However, UK NPM members appear to have concluded that the responsibility of the IRC centre managers would be most central to the public debate.

- d) Benefits of wearing body cameras: There was a discussion in late 2017 and early 2018 about the difference in evidence and information available dependent on how it is collected. UK NPM members compared the type of evidence produced by an undercover journalist who would be was present at every shift, with the work of inspectors or monitors being at a facility infrequently with detainees and detention staff being aware of their presence. The October 2017 UK NPM Business meeting minutes stated:

*‘There was a discussion of whether there would be a benefit to IMBs of wearing body cameras, what the downsides would be and whether legislation may be amended to make this possible. **ACTION:** All members to consider whether their organisation could or should utilise body cameras.’*

In the minutes of the next UK NPM Business meeting in April 2018 it was stated that:

*‘There was a brief discussion of the use of photographs and body worn cameras on inspections/monitoring visits. Rachel Stuart (RS) and Anne Owers (AO) noted that some Boards had been asked by governors to wear body worn cameras but this was refused on the basis that it may make independent monitors look like they are staff (Peter Clarke (PC) noted his agreement with this point) and that the Boards would not have control over where the photos were stored. Lay Observers had been refused permission to take photos of court custody, partly due to the alleged risk they might provide sufficiently detailed information to assist an escape. General agreement that photos were powerful and that inspectors/monitors and visitors should be able to utilise these.’*

- e) Whistleblowing: In the October 2017 UK NPM Business Meeting the issue of ensuring that detainees have reliability and confidence in whistleblowing



processes was suggested as relevant for discussion, noting this was an area the UK NPM had not previously considered. I cannot recall who raised this issue but the question was posed as to whether whistleblowing processes are clear for inspectors and monitors and whether the Public Interest Disclosure Act (PIDA) 1998 applied to UK NPM staff (referred to in the minutes as 'legislative position'). The October 2017 UK NPM Business Meeting minutes state:

*'There was a discussion of whistleblowing and whether members processes allow for whistleblowers to approach them with information. TN explained that RQIA is looking at what other eyes and ears can be used, for example, student nurses who will see the culture and practice issues. LP noted that whistleblowers are only protected when they provide information to prescribed organisations and not all NPM members are prescribed. LF noted that it is often thought that whistleblowing policies in detention centres are comprehensive but in practice they are not being used. Inspectorate bodies should ask how often whistleblowing policies are used and in what kind of cases. Beth Macmaster (BM) noted that staff in institutions do not always know who the inspectorate are. DQ noted that the NPM needs to be a safe environment where staff can come to us and raise these issues. CM noted if staff use internal whistleblowing processes, they consider the matter raised and would not necessarily raise it to inspectors. It was noted that whistleblowing is one aspect of what the NPM members need to consider in light of the abuse revealed at Brook House, and other issues include what constitutes evidence and how wide the evidence net is cast, evidencing good and bad practices and how management cultures allow abuses to occur when staff are well intentioned. **ACTION:** All members to consider whether whistleblowers are able to approach them and how they may improve this. **ACTION:** NPM coordination to clarify legislative position on whistleblowers.'*

15

Witness Name: John Wadham  
Statement No: First  
Exhibits: **INSERT**

20. While the language used in the minutes may imply that the UK NPM Chair and Secretariat were tasked with overseeing whether the first action in paragraph 20(e) (regarding UK NPM members' policies on whistleblowers) was acted upon, that is not the case. The UK NPM works on an informal basis of collaboration and mutual agreement. It is therefore the individual UK NPM members' responsibility to take forward actions like this one. The second action in paragraph 20(e) appears not to have been taken forward. Whilst this is unfortunate, the UK NPM Secretariat does not always have the necessary ability to undertake such tasks given its very limited resources and capacity.

## UK NPM submission to UNCAT

21. In March 2019, the UK NPM made a submission to the 66th session of the UNCAT: Preventing ill-treatment in detention in the United Kingdom.<sup>11</sup> Brook House was referenced in the section of that submission under 'Issues in places of detention'. The relevant section of the submission<sup>12</sup> is quoted in full below:

***'Paragraph 49 – Other information (Brook House)***

*It is of great concern to the NPM that an undercover television documentary identified apparent ill-treatment of detainees at Brook House IRC. G4S, who were and continue to be contracted by the Home Office to run Brook House IRC, commissioned an investigation, the report of which was published on 4 December 2018.*

*Reference: Kate Lampard, Ed Marsden, Independent investigation into concerns about Brook House immigration removal centre, available at [https://www.g4s.com/en-gb/-/media/g4s/unitedkingdom/files/brook-house/brook\\_house\\_\\_kate\\_lampard\\_report\\_november\\_2018.ashx](https://www.g4s.com/en-gb/-/media/g4s/unitedkingdom/files/brook-house/brook_house__kate_lampard_report_november_2018.ashx), accessed 21 March 2019.*

*The report highlighted a number of concerns including the inexperience of some staff, failures in oversight and management of staff and a 'laddish culture' of some staff, including Detainee Custody Managers. The investigation concluded that the accommodation and facilities at Brook House made it unsuitable to hold detainees for more than a few weeks and noted that staff had told investigators*

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<sup>11</sup> United Kingdom National Preventive Mechanism submission to the 66th session of the Committee against Torture [https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2019/03/UK-NPM\\_Submission-to-CAT-66.pdf](https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2019/03/UK-NPM_Submission-to-CAT-66.pdf)

<sup>12</sup> Ibid. See page 55

*that they were not confident to raise concerns about fellow staff and managers. Although no NPM inspection has been carried out since the publication of the report, the Brook House IMB continues to conduct regular visits, and has observed some progress made on issues relating to retention of staff, the training of Detainee Custody Managers and Operational Managers, the cleanliness of wings, the reopening of the 'cultural kitchen'<sup>1</sup> and procedures for the review of use of force incidents. Some staff were dismissed following the airing of the programme but, as far as we are aware, police investigations into the alleged abuse have not led to criminal charges.*

*Following the commencement of judicial review proceedings by two men detained at Brook House, the Home Office announced in October 2018 that it had requested that the PPO undertake an Article 3 ECHR compliant investigation into allegations of abuse. We understand that this will include an examination of the effectiveness of oversight mechanisms.*

*Recommendation*

*Ensure all immigration detainees are held safely, including ensuring staff understand and use whistleblowing procedures.'*

**Recommendations**

22. Other than the three UK NPM members participating separately in the Inquiry in their own right (i.e. HMIP, the IMB and CQC), all other 18 UK NPM members have informed me that they have no first-hand knowledge of matters at Brook House. With that in mind, the UK NPM is not currently well placed to make specific recommendations about how the mistreatment identified in Panorama could be prevented in future. The NPM would also not wish to pre-empt the outcome of the Inquiry, which will reflect the careful investigations the Inquiry has been able to conduct in relation to Brook House. The Inquiry Report will,

obviously, reflect the Inquiry's access to extensive documentation and be enriched by the Inquiry's ability to hear directly from many witnesses to what took place at Brook House. The UK NPM looks forward to drawing upon the Inquiry's findings and recommendations in due course. These will undoubtedly generate debate amongst UK NPM members and will influence the carrying out of their OPCAT functions in future.

23. Where the UK NPM has made recommendations, it is in relation to its own longstanding aims which are more structural in nature and are of more general application. In order to advance the UK NPM's mandate under OPCAT to issue forward-looking recommendations in order to improve conditions of detention in the UK, the UK NPM recommends:

- a. that UK NPM members reinforce a focus on the central core of OPCAT – the prevention of ill-treatment. This includes ensuring the continued and proactive integration of a human rights-based approach into all monitoring work.
- b. that the government should work with individual NPM members to improve their legislation in line with the powers that OPCAT requires a State Party to guarantee to an NPM. When the UK government designated the member bodies to fulfil the duties of an NPM in 2009, it did not give them any new powers, increased or specific budgets for NPM work nor place any specific requirements on them as a result of the designation. Together, these are significant weaknesses in the UK NPM model. Currently there are just two references to OPCAT and the SPT in members' statutes. While both are



symbolically important, they are not sufficient to meet the international requirements of an NPM.<sup>13</sup>

- c. that the formal and practical independence of all UK NPM members is continually strived for, so as NPM independence, effectiveness and credibility is safeguarded against an incursion by any State authorities, in line with OPCAT's obligation of independence.
- d. that the visibility and awareness of NPM member's roles in preventing ill-treatment in detention is increased. This is important given the distinct challenges the UK's multi-body NPM presents for its institutional visibility and identity.

24. Many of these themes are set out in the UK NPM's more recent published material, including UK NPM Annual Reports<sup>14</sup> and UK NPM meetings and correspondence<sup>15</sup> with the Ministry of Justice and with the SPT. The SPT visited the UK for the first time in 2019. After its visit, the SPT, prepared a very important report making observations, findings and recommendations relevant to the prevention of torture and ill-treatment of persons deprived of their liberty under the jurisdiction of the UK. The visit of the SPT also recommended that the UK NPM be put on a statutory footing, which led to the UK NPM being considered as part of the recent consultation on legislation by the Ministry of Justice.<sup>16</sup> The UK NPM has however been informed that the Ministry of Justice has decided not to take forward legislation to put the NPM on a statutory footing at this time.

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<sup>13</sup> The Police and Fire Reform (Scotland) Act 2012 refers explicitly to the SPT and OPCAT (s. 93-96). The Public Services Reform (Inspection and Monitoring of Prisons) (Scotland) Order 2015 also introduces a reference to the SPT and OPCAT into the Prisons (Scotland) Act 1989

<sup>14</sup> Publications and resources – National Preventive Mechanism

<https://www.nationalpreventivemechanism.org.uk/publications-resources/>

<sup>15</sup> See 'Correspondence' section <https://www.nationalpreventivemechanism.org.uk/publications-resources/>

<sup>16</sup> Strengthening the Independent Scrutiny Bodies through Legislation - Ministry of Justice - Citizen Space <https://consult.justice.gov.uk/digital-communications/strengthening-the-independent-scrutiny-bodies/>

25. The SPT report on the UK was delivered in February 2020<sup>17</sup> and the UK NPM responded<sup>18</sup> to the SPT's recommendations in December 2020. The SPT then submitted a report to the UK Government in May 2021.<sup>19</sup> Both the UK Government<sup>20</sup> and the UK NPM<sup>21</sup> responded to the SPT's final report in June 2021. The findings and recommendations made by the SPT to the UK Government that specifically relate to immigration detention are at paragraphs 54-56 and 100-103.<sup>22</sup>

<b><u>Statement of Truth</u></b>	
<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	John Wadham
Signature	<div style="border: 1px dashed black; padding: 5px; display: inline-block;"><b>Signature</b></div>
Date	14 February 2022

<sup>17</sup> Visit to United Kingdom of Great Britain and Northern Ireland undertaken from 9 to 18 September 2019: recommendations and observations addressed to the national preventive mechanism CAT.OP.GBP.ROPNM. R1

<sup>18</sup> UK-NPM-Response-to-SPT-Report December 2020: [https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2020/12/UK-NPM-Response-to-SPT-Report\\_08122020\\_Final.pdf](https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2020/12/UK-NPM-Response-to-SPT-Report_08122020_Final.pdf)

<sup>19</sup> Visit to the United Kingdom of Great Britain and Northern Ireland undertaken from 9 to 18 September 2019: recommendations and observations addressed to the State party CAT/OP/GBR/ROSP/R.1

<sup>20</sup> The UK's response to the UN's Subcommittee on the Prevention of Torture following their 2019 visit: <https://www.gov.uk/government/publications/united-nations-subcommittee-on-the-prevention-of-torture>

<sup>21</sup> UK NPM response to SPT report to UK Government June 2021: [https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2021/06/NPM-response-to-SPT-report\\_FINAL.pdf](https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2021/06/NPM-response-to-SPT-report_FINAL.pdf)

<sup>22</sup> Visit to the United Kingdom of Great Britain and Northern Ireland undertaken from 9 to 18 September 2019: recommendations and observations addressed to the State party CAT/OP/GBR/ROSP/R.1

Witness Name: John Wadham  
Statement No: First  
Exhibits: INSERT