

## IN THE BROOK HOUSE INQUIRY

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### INDIVIDUAL CLOSING STATEMENT ON BEHALF OF D1538

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1. D1538 was born in Morocco. He was detained at Brook House during the Relevant Period on two separate occasions. The first of those occasions was between 1 June 2017 and 14 June 2017 and the second was between 27 June 2017 and 15 July 2017. Later deemed a Level 2 Adult At Risk at Harmondsworth Immigration Removal Centre (“IRC”), D1538 was vulnerable and at risk the entire time he was detained, which either no one was capable of identifying at Brook House or no one cared enough to try to identify it.
2. During D1538’s detention at Brook House, he was the victim of inhuman and degrading ill-treatment and punishment, including healthcare failures, unlawful use of force (assaults), verbal abuse, traumatising by exposure to the self-harm and attempted suicide of other people in detention, unlawful segregation, the extreme conditions, the hostile environment, and the toxic, corrupt and institutionally racist culture. The incidents D1538 was the victim of therefore, individually and/or cumulatively, violated the systemic, operational and investigative obligations under Article 3 ECHR. D1538 is, sadly, one of many, many victims of Brook House and the immigration detention system as a whole.
3. D1538 had a number of reasons for deciding to participate in this Inquiry. It was important to D1538 that his voice was heard because, in effect, he had no voice (or no voice that anyone at Brook House would listen to) whilst locked away from the rest of British society. Further, D1538 has thus far not been vindicated and has been denied justice for what happened to him. He certainly got no justice from the PSU when he complained<sup>1</sup> about ill-treatment.<sup>2</sup> Prior to this Inquiry nobody has ever been properly held to account for what they did to D1538.

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<sup>1</sup> He only did so after he was transferred from Brook House to another IRC.

<sup>2</sup> See DL0000231\_0024-36, paras. 89 - 129 for his account (please note that the entirety of this document, referenced throughout these submissions, is yet to be adduced to the Inquiry, which has to date only placed select pages on the website).

4. Furthermore, as difficult as participating has been for D1538, and in particular recounting the horrific circumstances which he was forced to endure at Brook House, he wanted to play a part in bringing about significant changes to the system.

#### **Overview of this individual Closing Statement**

5. The Chair is referred to the Closing Statement on Behalf of D1527, Reverend Ward, D1851, D1914, D2077, D1538 and D643 (hereinafter the “Group Closing Statement”), which includes D1538’s submissions on the prolonged, unlimited extent and purposelessness of detention; clinical care failures; the poor conditions and regime; unlawful use of segregation; unlawful use of force; the failures in the safeguards such as Rule 34 and 35 (which were designed to identify vulnerable detainees like him); the inadequacy and lack of independence of the PSU; unlawful and excessive use of force; flaws in oversight mechanisms such as the IMB and HMIP; and the continued impunity of officers involved in the abuse and mistreatment of people detained at Brook House.
6. This individual Closing Statement will develop the submissions made on behalf of D1538 in his oral Closing Statement on 5 April 2022 and in the Group Closing Statement and will deal with the following:
  - (1) D1538’s background, history and pre-existing vulnerabilities
  - (2) Fact-finding in relation to D1538’s evidence
  - (3) The evidence:
    - (a) D1538’s experience of the conditions and environment
    - (b) Healthcare failures experienced by D1538
    - (c) 3 June 2017
    - (d) 6 June 2017
    - (e) 28 June 2017
    - (f) 4 July 2017
    - (g) The impact on D1538 of detention at Brook House
  - (4) Conclusions

7. D1538 invites the Chair to review the following key evidence alongside this individual Closing Statement:

- (1) First Witness Statement of D1538<sup>3</sup>
- (2) Summary of D1538's evidence, read in on 21 February 2022<sup>4</sup>
- (3) The response by the PSU to D1538's complaint<sup>5</sup>
- (4) The video footage of the incidents of 3 and 6 June 2017<sup>6</sup>
- (5) D1538's Rule 35 Report<sup>7</sup>
- (6) The oral evidence of Ed Fiddy<sup>8</sup>, Ryan Bromley<sup>9</sup>, Shane Farrell<sup>10</sup>, Chris Donnelly<sup>11</sup>, and Darren Tomsett<sup>12</sup>
- (7) The transcript of events on 6 June 2017<sup>13</sup>

**D1538's background, history and pre-existing vulnerabilities**

8. D1538 is a young man who fled Morocco for the UK in 2014. He came to the UK to escape violent physical and verbal mistreatment.<sup>14</sup> D1538 suffered severe physical abuse from his father as a child, as well as sexual violence and physical assaults at the hands of strangers, including during a period of time when he was street homeless in Morocco.<sup>15</sup> He has scarring as a result of these attacks,<sup>16</sup> which a doctor confirmed created cause for concern that he may be a victim of torture.<sup>17</sup>

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<sup>3</sup> DL0000231.

<sup>4</sup> [Gordon Lee, 21 February 2022, 89/24 – 113/20.](#)

<sup>5</sup> [DL0000060, CJS003348](#) (please note that the entirety of this document, referenced throughout these submissions, is yet to be adduced to the Inquiry, with only select pages currently on the website).

<sup>6</sup> Disk 55 06 June 2017 Disk 4 (please note that this video is yet to be adduced to the Inquiry); UOF 136.17 (shown in live evidence on [7 March 2022](#)); V2017060600011 clip 1 (shown in live evidence on [8 March 2022](#)).

<sup>7</sup> [CJS003632.](#)

<sup>8</sup> [Ed Fiddy, 7 March 2022, 142/7 – 190/20.](#)

<sup>9</sup> [Ryan Bromley, 7 March 2022, 80/12 – 142/1.](#)

<sup>10</sup> [Shane Farrell, 8 March 2022, 74/15 – 129/21.](#)

<sup>11</sup> [Chris Donnelly, 23 February 2022, 53/8 – 178/8.](#)

<sup>12</sup> [Darren Tomsett, 7 March 2022, 1/3 – 80/4.](#)

<sup>13</sup> [TRN0000089, KENCOV1031, V2017060600011 clip 1.](#)

<sup>14</sup> DL0000231\_0001-2, paras. 2 – 4.

<sup>15</sup> DL0000231\_0001-2, paras. 2 – 4.

<sup>16</sup> DL0000231-0001-2, paras. 2 – 4.

<sup>17</sup> [CJS007239\\_0009.](#)

9. D1538 has been diagnosed with severe major depressive disorder with psychotic features, complex PTSD, and dissociative disorder, stemming in part from the emotional, sexual and physical abuse he suffered as a child.<sup>18</sup>
10. Despite D1538's obvious vulnerabilities, he spent over ten months in immigration detention between 2014 and 2017.<sup>19</sup>

### **Fact-finding in relation to D1538's evidence**

11. D1538 is a witness of truth and he invites the Chair to accept his evidence as true in its entirety. The evidence provided by D1538 has been credible and reliable. His evidence has not only been internally consistent in terms of what he has told this Inquiry and what he said about Brook House previously; it has been supported by other, significant evidence the Inquiry has heard.
12. D1538's evidence therefore provides "*sufficiently strong, clear and concordant inferences or similar unrebutted presumptions of fact*". Further, it is "*elaborate and consistent ... mentioning the specific elements ... credible and reasonably detailed*".<sup>20</sup> The evidence provided by D1538 is very "*clear and detailed*", "*other similar unrebutted facts have been established*", his "*account of mistreatment [is] consistent with other account[s]...[he] has given [and] with other evidence independent of his account*". There is wide-ranging "*evidence...to support [D1538's] complaint[s] of mistreatment*" of high "*quality*". In relation to D1538's evidence, there are instances where "*rebuttal evidence ought to have existed and does not*" and he invites the Chair to draw appropriate "*inferences...from their absence*".<sup>21</sup>
13. Appropriate inferences to draw from the absence of evidence in D1538's case include that those who deny matters and ought to have provided rebuttal evidence to support their denial did not do so because the allegations made by D1538 were true and the only evidence available would have proved their truth (i.e. there is before this Inquiry no rebuttal evidence but the evidence that should have existed is not available for suspicious or incredible reasons).

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<sup>18</sup> DL0000231\_0002, 0042-43, paras. 1 – 4, 165 – 169.

<sup>19</sup> HOM032504.

<sup>20</sup> 18e, CTI Note on Approach to Findings of Fact under Art 3 ECHR 250322.

<sup>21</sup> 18g, CTI Note on Approach to Findings of Fact under Art 3 ECHR 250322.

Another appropriate inference would be that a denial amounts to no more than a bare denial, for which there is and never was any evidence to support it.

14. It is also open to the Chair to find that witnesses whose evidence contradicts that of D1538 have not only been factually inaccurate but that they have been dishonest and deliberately so. It is incumbent on the Chair that, where there are instances of nonsensical, unreasonable or implausible evidence, she find accordingly and records such witnesses as lacking in all credibility.

### **The evidence**

#### D1538's experience of the conditions and environment

15. In D1538's evidence to this Inquiry, he painted a shocking picture of the extreme, dehumanising and humiliating conditions at Brook House. D1538, like many others who gave evidence to this Inquiry, described the degrading nature of having to use the toilet in the cell with no privacy whatsoever for either him or his cellmate.<sup>22</sup> D1538 described being locked in his cell overnight, with additional lock-ins at other times. He was frightened and felt like a prisoner.<sup>23</sup> D1538 found the widespread drug abuse amongst the detainee population very stressful, as he saw people having adverse reactions including vomiting and shaking.<sup>24</sup> Brook House was just a matter of survival for D1538.<sup>25</sup>

16. Further details of these conditions and the regime are set out in the Group Closing Statement. There is clear corroboration of D1538's account of the conditions to be found in the evidence of numerous other witnesses. The conditions and regime contributed to the abuse and mistreatment of detainees, including D1538, at Brook House.

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<sup>22</sup> DL0000231\_0007, para. 30.

<sup>23</sup> DL0000231\_0007, para. 31.

<sup>24</sup> DL0000231\_0039, para. 145.

<sup>25</sup> DL0000231\_0040, para. 152.

### Healthcare failures experienced by D1538

17. During D1538's initial screening on his arrival in detention, a nurse recorded that his scars were a result of fighting and accidents – rather than the abuse he suffered as a child in Morocco.<sup>26</sup> None of his mental health vulnerabilities were identified by the nurse.<sup>27</sup>
18. During D1538's Rule 34 appointment the following day, Dr Chaudhary's appointment notes merely state that he had no medical diagnosis. A further appointment was arranged to discuss D1538's other "*medical problems*" he had had for four years.<sup>28</sup> There was a wholesale failure to identify him as a victim of torture, or as someone with severe mental illness.<sup>29</sup>
19. D1538 requested a Rule 35 report whilst detained at Brook House, but this request was refused.<sup>30</sup> It was only after D1538 had left Brook House and during his detention at Harmondsworth IRC that he received a Rule 35(3) report which concluded he may be a victim of torture.<sup>31</sup> However, even that report failed to include details of all of D1538's scars and it failed entirely to make an assessment of the impact of detention on him.<sup>32</sup> The Home Office inexplicably maintained D1538's detention on the grounds of absconding risk, in spite of the Rule 35(3) report, in effect ignoring D1538's pending asylum claim and continued engagement with his solicitors.<sup>33</sup>
20. Further explanation and description of the systemic and dangerous failures in the Rule 34 and 35 process are set out in the Group Closing Statement. Together with these submissions, they show that D1538 was just one of many, many exceptionally vulnerable detainees at Brook House, who was failed by the unwillingness and inability of the Home Office and G4S to operate these safeguards properly.

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<sup>26</sup> DL0000231\_0004, para. 22.

<sup>27</sup> [CJS007239\\_0001](#).

<sup>28</sup> DL0000231\_0005, para. 23.

<sup>29</sup> [CJS007239\\_0002](#).

<sup>30</sup> DL0000231\_0007, para. 137.

<sup>31</sup> DL0000231\_0038, para. 138.

<sup>32</sup> DL0000231\_0038, para. 139.

<sup>33</sup> DL0000231\_0038, para. 141.

21. D1538 also described how difficult it was to access healthcare at Brook House, and even when he was somehow able to obtain an appointment, staff were dismissive and overly reliant on paracetamol and sleeping tablets.<sup>34</sup>
22. D1538 repeatedly raised concerns with healthcare staff about a scar on his head and headaches, but no meaningful action was ever taken in response.<sup>35</sup>
23. All of the applicable detention safeguards designed to protect vulnerable detainees failed in D1538's case. D1538 was therefore failed by the system that was supposed to protect him. D1538 therefore invites the Chair to find that the detention safeguards including the healthcare provision at Brook House violated the systemic obligation under Article 3 ECHR. Further, D1538 invites the Chair to find that the failure to provide him with adequate healthcare, including the wholesale failure to identify his vulnerabilities and risks, which served to compound his distress, also violated the operational obligation under Article 3 ECHR.

### 3 June 2017

24. On 3 June 2017, D1538 was subjected to an unlawful use of force by DCO Edmund Fiddy in the computer room. On this occasion, DCO Luke Instone-Brewer (who was known for "*goadings and provoking detainees*"<sup>36</sup>) unreasonably denied D1538 use of a computer, which led to a verbal altercation between them. DCO Fiddy entered the room and pushed D1538, including grabbing him by the neck, thereby assaulting him.<sup>37</sup>
25. The evidence this Inquiry has seen and heard in relation to this incident could not have made it clearer that the officers involved in this incident had been dishonest in their use of force reports. Each of them omitted a key detail about the use of force from those accounts, specifically that DCO Fiddy had grabbed D1538 by the neck,<sup>38</sup> which can clearly be seen when

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<sup>34</sup> DL0000231\_0036 – 37, paras. 130 – 136.

<sup>35</sup> DL0000231\_0036, para. 130.

<sup>36</sup> Michelle Brown noted a detainee complaint against him 2016, for "*poor*" and "*inappropriate*" behaviour and "*bullying*", was substantiated (CJS0073671\_0003); Stacie Dean raised concerns about him "*antagonising and goading*" detainees, and for his "*poor behaviour*" (CJS0073663\_0007).

<sup>37</sup> DL0000231\_0024, para. 90.

<sup>38</sup> Ed Fiddy, 7 March 2022, 171/22-25.

one has access to the footage<sup>39</sup> (which D1538 did not recall ever seeing until this Inquiry<sup>40</sup>) and scrutinises it with the careful attention required of something calling itself an ‘investigation’. That critical omission from the use of force reports, which sought to minimise the nature of the force used, can only have been deliberate. D1538 invites the Chair to record that as a fact and to explicitly record the dishonesty of the officers concerned.

26. In oral evidence, DCO Fiddy accepted, as he had to, the importance of use of force documentation being truthful and accurate.<sup>41</sup> He also admitted, again as he had to, that the head and neck are “*very vulnerable*”, but nevertheless – and nonsensically – attempted to justify his use of force by reference to the very use of force report he accepted did not include the critical detail that he had grabbed D1538 by the neck.<sup>42</sup> Mr Collier noted that DCO Fiddy’s decision to place his hands around D1538’s neck and push him backwards was not a preferred option, and training highlights the neck as an extreme vulnerable area.<sup>43</sup>

27. On the totality of the evidence the Inquiry has heard, which has now been examined in more detail than Mr Collier had available to him at the time of writing his report,<sup>44</sup> it is plain that DCO Fiddy’s actions constituted an assault on D1538. D1538 invites the Chair to make a finding to that effect: the force was unreasonable, unnecessary and disproportionate and it violated Article 3 ECHR in the circumstances. In particular, D1538 urges the Chair to consider the following question in making findings in respect of this incident: why, if the force used by DCO Fiddy was really thought reasonable, necessary and proportionate, would the officers concerned omit the key aspect of what he did? In D1538’s view, the critical omission from the officers’ use of force reports is determinative of whether or not the force constituted an assault, and thus the important issue of the reasonableness of the force used ought to be determined in favour of D1538’s account.

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<sup>39</sup> Disk 4, UOF 136.17 03 June 2017 (shown in live evidence on [7 March 2022](#)).

<sup>40</sup> DL000231\_0025, para. 96.

<sup>41</sup> [Ed Fiddy, 7 March 2022, 166/22-167-25](#).

<sup>42</sup> [Ed Fiddy, 7 March 2022, 172/4-11](#).

<sup>43</sup> [INQ00111\\_0111-112](#).

<sup>44</sup> In particular, he did not have before him the evidence that DCO Instone-Brewer has a history of provoking and goading detainees; he also did not address in detail the omission of the neck-grab from the report – [INQ000111\\_0114](#).



28. D1538, like many others this Inquiry has heard evidence from or about,<sup>45</sup> was then subjected to a further abuse of power, under the auspices of the application of Rule 40. DCM Andrew Lyden purported to authorise the removal from association, despite having no authority to do so.<sup>46</sup> The stated reason was “*Detainee D1538 has been placed onto rule 40 after invading an officers (sic) personal space, the officer had to push D1537 away from him before detainee came towards officer again and tried to grab him around the neck. Duty Director consulted and at this present time the use of rule 40 is required to maintain the safety and security of the centre*”.<sup>47</sup>
29. It appears that Rule 40 was here used to punish D1538 for allegedly grabbing an officer’s neck (whereas he was in fact the victim of an assault by DCO Fiddy). Even the PSU investigation acknowledged that, given there were three hours between the use of force and the Rule 40 decision, by the time of the decision, there was an argument that D1538 no longer posed a risk.<sup>48</sup>
30. DCM Lyden also unlawfully used the urgency procedure, despite there being no justification for it – a failure flagged as a learning point by the PSU,<sup>49</sup> which, from the evidence<sup>50</sup> heard in this Inquiry, appears to never have been meaningfully acted upon. Phil Riley accepted in oral evidence that routine authorisation by DCMs of Rule 40 would have been against the relevant DSO.<sup>51</sup>
31. The unlawful use of segregation on D1538 on 3 June 2017 therefore further violated Article 3 ECHR. Further, it is clear from all of the evidence that the use of segregation in this way was part and parcel of a continuous violation of the systemic obligation under Article 3 ECHR. With only a handful of exceptions, every use of Rule 40 and 42 in the Relevant Period was not authorised by a person with authority to remove a person from association or to confine them. The Group Closing Statement gives further details about the endemic, catastrophic abusive

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<sup>45</sup> See for example the unlawful removal of association of D523 on 7 April 2017, unlawfully authorised by DCM Roffey (CJS001840), or of D1527 on 25 April 2017, unlawfully authorised by DCM McDonald and unlawfully conducted under the urgency procedure (CJS001852), or of D1914 on 27 May 2017, unlawfully authorised by DCM London and unlawfully conducted under the urgency procedure (CJS001768 – please note that this document is yet to be adduced to the Inquiry).

<sup>46</sup> CJS001619\_0016.

<sup>47</sup> CJS001619\_0016.

<sup>48</sup> CJS003348\_0024.

<sup>49</sup> CJS003348\_0026.

<sup>50</sup> Please see the Group Closing Statement submissions on Rule 40.

<sup>51</sup> Phil Riley, 4 April 2022, 84/16-22.

and unlawful use of Rule 40 in the Relevant Period, including as a punishment for behaviour, a method of control, a response to detainees with mental health issues, and for administrative convenience. It was a significant contributory factor in the wider inhumanity of the environment, as well as inhuman and degrading treatment of detainees at Brook House, including D1538.

32. D1538 complained about the events of 3 June 2017 on 21 August 2017, whilst he was at Harmondsworth IRC.<sup>52</sup> Notwithstanding the evidence that would have been available to the PSU at the time, including the use of force reports and the CCTV footage, D1538's complaint that the use of force against him was unprovoked and unjustified was found to be unsubstantiated.<sup>53</sup>
33. The PSU investigation was, from the outset, plagued with failures. Initially, G4S investigated the complaint, despite it falling within the PSU's remit, which caused a delay in transfer to the PSU for investigation. Even when the investigation was transferred, it took the PSU further time to acknowledge that they would investigate it, so that three months had passed since the initial complaint by the time they did.
34. Furthermore, D1538 was denied the opportunity to comment on the crucial CCTV evidence.<sup>54</sup> Had he been afforded that opportunity, it would have been identified much earlier that the officers had omitted the key detail of the mechanism of force from their use of force reports (although the PSU ought to have identified it anyway), which in turn ought to have affected their credibility and ultimately ought to have influenced the outcome. Even Helen Wilkinson of the PSU acknowledged in her oral evidence that it is best practice, as a matter of fairness, to invite complainants to view and comment on evidence,<sup>55</sup> demonstrating that even in the view of the PSU D1538 was treated unfairly.
35. Moreover, the PSU did not even bother to interview the officers concerned,<sup>56</sup> meaning their accounts were never tested, until this Inquiry. The failure to even interview the officers is

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<sup>52</sup> [DL0000067](#).

<sup>53</sup> [CJS003348\\_0020](#).

<sup>54</sup> [CJS003348\\_0007](#).

<sup>55</sup> [Helen Wilkinson, 24 March 2022, 56/20-57/9](#).

<sup>56</sup> [CJS003348\\_0007](#).

illustrative of not only the poor quality of PSU investigations but reflects an institutional bias and the culture of disbelief of detainees with an unwarranted confidence and acceptance in the veracity of the accounts of officers.<sup>57</sup> In addition to these significant failures, the letter providing the summary of the investigation was from Detention Escorting Services<sup>58</sup> and the summary of the full PSU report was inaccurate, in that it misreported the full report's recommendation for a review of the urgency procedures under Rule 40.<sup>59</sup>

36. D1538 urges the Chair to note and record the inadequacy of the PSU and to find that investigation into the incident on 3 June 2017 was ineffective. Further, D1538 invites the Chair to find that, given the treatment the PSU was supposed to be investigating was itself a violation of Article 3 ECHR, the failure to conduct an effective investigation into the same violated the investigative obligation.

#### 6 June 2017

37. Just three days later, on 6 June 2017, D1538 was subjected to a yet another unlawful use of force, this time by DCO Bromley, DCM London and DCM Farrell, which terrified him and has left him traumatised to this day.<sup>60</sup>

38. As captured on CCTV footage,<sup>61</sup> D1538 suffered a violent, unprovoked and frightening assault by another detained man, who attacked him with a metal pipe after a verbal altercation regarding the use of a chair in the arts and crafts room.<sup>62</sup> D1538 was then subjected to another violent and frightening attack by the very people who should have sought to protect him from the first attack. DCO Bromley and DCM London entered the room and took D1538 by the arms. DCM Farrell then grabbed D1538 by the head, briefly released him, and then grabbed him by the head again.<sup>63</sup>

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<sup>57</sup> DL000231\_0033-36, paras. 112 – 129.

<sup>58</sup> [DL0000060\\_0001](#).

<sup>59</sup> [DL0000060](#).

<sup>60</sup> DL000231\_0018, para. 71.

<sup>61</sup> V2017060600011 clip 1 (shown in live evidence on [8 March 2022](#)).

<sup>62</sup> DL000231\_0009-18.

<sup>63</sup> V2017060600011 clip 1 (shown in live evidence on [8 March 2022](#)).

39. In oral evidence, DCM Farrell described the importance of keeping a person's head and neck in line during such a manoeuvre to prevent restriction of breathing. However, what DCM Farrell had done, as admitted for the first time during his oral evidence, was to pull D1538's head down "*rapidly*" and "*quite far*".<sup>64</sup> Although Mr Collier had watched the footage, this critical admission as to the nature and severity of the force used was not known to him at the time of writing his report.<sup>65</sup> The knowledge that DCM Farrell had used force in that specific manner would have undoubtedly affected Mr Collier's opinion.
40. In yet another example of the falsification of use of force documentation<sup>66</sup>, DCO Bromley, DCM London and DCM Farrell had recorded that the head-grab was initiated in order to protect D1538 from hitting his head on cabinets,<sup>67</sup> despite footage of the incident making clear that no cabinet was nearby at the initiation of force.
41. In oral evidence, DCM Farrell admitted, as he had to, that D1538 was not close to a cabinet when he initiated the use of force.<sup>68</sup> He was also unable to recall if he had taken D1538's visible facial injuries into account before initiating force,<sup>69</sup> which on any view was a highly relevant matter. Additionally, DCM Farrell was unable to explain why all of the officers provided the same incorrect explanation for the use of force in their documentation, whilst simultaneously and unconvincingly denying that the officers colluded on what to put in the reports and, incredibly, suggesting that it "*must have been*" a "*coincidence*".<sup>70</sup>
42. Concerningly, DCO Bromley described this violent incident as a "*textbook*" use of force in oral evidence.<sup>71</sup> He also repeated the specious claim that the head-grab was due to a risk of D1538 hitting his head on cabinets,<sup>72</sup> notwithstanding the CCTV footage to the contrary.

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<sup>64</sup> [Shane Farrell, 8 March 2022, 93/9-102/21.](#)

<sup>65</sup> Mr Collier wrote his report prior to DCM Farrell's live evidence and was therefore unable to take these comments into account – [INQ000111 0101.](#)

<sup>66</sup> This was one of many examples the Inquiry heard about where use of force documentation was incomplete or misleading. For example, no use of force documentation was completed after the assault on D1527 on 25 April 2022. Another example the Inquiry heard evidence on was the reports relating to the use of force on D1851 and D390, which dishonestly stated there was a puddle of water on the floor – [CJS005624.](#)

<sup>67</sup> [HOM004133 0003-4, CJS005615 0015.](#)

<sup>68</sup> [Shane Farrell, 8 March 2022, 94/13-18.](#)

<sup>69</sup> [Shane Farrell, 8 March 2022, 98/11-18.](#)

<sup>70</sup> [Shane Farrell, 8 March 2022, 99/5-15.](#)

<sup>71</sup> [Ryan Bromley, 7 March 2022, 123/10 – 129/9.](#)

<sup>72</sup> [Ryan Bromley, 7 March 2022, 123/10-21.](#)



43. The patent fact that this force was violent and excessive and thus unlawful is reflected in DCO Bromley's comments to Callum Tulley after the incident, when he stated, memorably, that DCM Farrell "*took D1538's head clean off*". Of this comment, DCO Bromley stated in oral evidence that it did not reflect any concerns he had about the incident, and that he did not know why he made the comments.<sup>73</sup> He was also unable to provide a convincing reason why he commented that DCM Farrell initiated the head grab "*in front of everyone*"<sup>74</sup> – a comment which can only be interpreted as indicating he felt the force was unnecessary and he was therefore surprised that DCM Farrell felt comfortable acting as he did with an audience.
44. Further, the officers in attendance failed to turn on their body worn cameras, and no report of injury form for D1538 was completed,<sup>75</sup> despite him suffering serious facial injuries. Mr Collier was highly critical of the frequent failures in the Relevant Period to activate bodyworn cameras, in particular by DCMs.<sup>76</sup>
45. On the totality of the evidence this Inquiry has heard, which has now been examined in more detail than Mr Collier had available to him at the time of writing his report,<sup>77</sup> it is plain that that the force used on D1538 on 6 June 2017 constituted an assault. D1538 invites the Chair to make a finding to that effect: again, that the use of force was unreasonable, unnecessary and disproportionate. In particular, D1538 urges the Chair to consider the seriously concerning evidence surrounding the use of force, which demonstrates dishonesty, collusion and a culture of willingness to conceal the truth, which appears ongoing from the evidence given to this Inquiry, and to make findings accordingly. The Chair should note that DCM Farrell and DCO Bromley still work at Brook House.<sup>78</sup> The circumstances of the same violated Article 3 ECHR.
46. Following the use of force, D1538 was taken to E-wing for three hours, despite him having been attacked and victimised once by another detainee and again by the officers,<sup>79</sup> adding insult

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<sup>73</sup> [Ryan Bromley, 7 March 2022, 124/11-125/10.](#)

<sup>74</sup> [Ryan Bromley, 7 March 2022, 127/11 – 128/2.](#)

<sup>75</sup> [Steve Loughton, 1 March 2022, 121/11 – 122/20.](#)

<sup>76</sup> [John Collier, 30 March 2022, 157/3-158/2.](#)

<sup>77</sup> In particular, Mr Collier did not have the accounts of the officers as heard in live evidence before him about this incident, on 7 and 8 March 2022.

<sup>78</sup> [SER000433, 434.](#)

<sup>79</sup> DL000231\_0017 – 18, paras. 66 – 73.

to injury. This is just one example of many<sup>80</sup> instances of E-wing being used as *de facto* segregation – unlawfully and without authorisation. Again, this violated Article 3 ECHR in the case of D1538 and it further demonstrates the pattern of flagrant and systemic unlawfulness in the application of the power under Rule 40.

47. D1538 tried to complain about this incident when interviewed by the PSU. However, because he had not included details of it in his original complaint, his remarks were brushed off and he was directed to focus only on the incidents of 3 and 28 June 2017.<sup>81</sup> In this case, the violation of the investigative obligation under Article 3 ECHR arose not out of an ineffective investigation but from a failure to conduct any investigation at all. D1538 invites the Chair to find accordingly.

#### 28 June 2017

48. On 28 June 2017, D1538 sought to enter C-wing in order to borrow additional clothes from another detainee.<sup>82</sup> DCO Darren Tomsett (an officer who had multiple complaints recorded against him<sup>83</sup>) refused D1538 entry, and told him that he should change his clothes as he “*looked gay*”. D1538 described the obvious terror caused by this comment, due to his fear that other men in detention would hear it and respond negatively.<sup>84</sup>

49. This was another incident which was investigated by PSU, but again, D1538’s complaint was found unsubstantiated.<sup>85</sup> The approach to D1538’s complaint is another illustrative example of the inadequacy of the PSU. Despite D1538’s cogent account that the comment was made, on this occasion the PSU found that there was no “*definitive*” evidence of the comment, by which they meant an audio recording, which, even if it had been available, would have been near impossible for D1538 in the position that he was in to provide. The investigating officer considered in particular the likelihood of such a comment being made by a DCO (who had,

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<sup>80</sup> See Dr Bingham’s analysis of this phenomenon at [BHM000033\\_0142](#).

<sup>81</sup> [HOM002627](#).

<sup>82</sup> DL0000231\_0028-33, paras. 102 – 111.

<sup>83</sup> [HOM002190](#).

<sup>84</sup> DL0000231\_0028, para. 104.

<sup>85</sup> CJS003348.

in this instance, been promoted to DCM<sup>86</sup>), and the surrounding circumstances,<sup>87</sup> yet failed to consider DCM Tomsett's record as the subject of numerous detainee complaints.<sup>88</sup> It was accepted on behalf of the PSU in evidence that they do not give weight to unsubstantiated complaints against officers when investigating a new complaint,<sup>89</sup> which can only perpetuate the cycle of disbelief of detainees and the failure to substantiate complaints. Both contribute to a wider culture of impunity perpetuated by the Home Office in which mistreatment and abuse occurred and reoccurs.

50. Such a culture was what emboldened DCM Tomsett to suggest, incredibly, that he was subject to so many complaints because he upheld the rules of the IRC, which detainees did not like,<sup>90</sup> although when faced with clear evidence of his conduct, such as his comment to a detainee that he was "*whining like a fucking girl*" because he had asked for new clothes<sup>91</sup>, he sought to justify it as a response to stress,<sup>92</sup> before again maintaining that he did not regularly use inappropriate language to detainees.<sup>93</sup>

51. D1538 seeks a finding from the Chair that DCM Tomsett did regularly use inappropriate language towards detainees and that on 28 June 2017 DCM Tomsett did make the abusive, homophobic and dehumanising comment towards him, which violated Article 3 ECHR. Further, D1538 seeks a finding in respect of the PSU's investigative failures in respect of this incident, which again violated the investigative obligation under Article 3 ECHR.

#### 4 July 2017

52. On 4 July 2017, D1538 found his cellmate lying on the floor, after his cellmate had attempted to kill himself by hanging.

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<sup>86</sup> CJS003348\_0022.

<sup>87</sup> CJS003348\_0021.

<sup>88</sup> [HOM002190](#).

<sup>89</sup> [Helen Wilkinson, 24 March 2022, 66/6-21](#).

<sup>90</sup> [Darren Tomsett, 7 March 2022, 45/8-24](#).

<sup>91</sup> [Darren Tomsett, 7 March 2022, 27/1-28/9](#).

<sup>92</sup> [Darren Tomsett, 7 March 2022, 72/2-16](#).

<sup>93</sup> [Darren Tomsett, 7 March 2022, 28/3-5](#).

53. D1538 pressed the cell call bell and DCM Chris Donnelly attended. However, DCM Donnelly then took two minutes and prompting from DCO Tulley before he removed the ligature from D1538's cellmate's neck. DCM Donnelly accepted in oral evidence that he had failed to properly check for the ligature on arrival. He also admitted that he had omitted from his subsequent report on the incident that DCO Tulley had pointed out the ligature to him and that there was a delay in his attendance to D1538's cellmate. In response to a question as to whether it was a "*cover-up*", he responded "*possibly*".<sup>94</sup> DCM Donnelly admitted that if D1538's cellmate had died, in deliberately omitting important information as he did, he may have been guilty of a criminal offence. He stated he left out the information so he did not "*look bad*".<sup>95</sup> DCM Donnelly still works at Brook House.<sup>96</sup>

54. D1538 was deeply disturbed by this incident and requested medical help. His medical records indicate he was booked into a medical appointment, which he cannot recall and he did not attend, for reasons he is unclear on. He suffered from insomnia and intrusive thoughts following this incident and continues to be haunted by images of it. D1538 spoke in his evidence to this Inquiry of the lack of support from custodial and healthcare staff. This was not the first time D1538 had witnessed his cellmate self-harm or attempt suicide.<sup>97</sup>

55. That D1538 witnessed his cellmate self-harm and attempt suicide was not unusual at Brook House. The high numbers (248) of detained men on ACDT<sup>98</sup> in the Relevant Period is just one indicator of the volume of detainees who were suffering intense mental distress and were self-harming. The IMB reports produced in timeframes close to this incident (2015, 2016 and 2017) had flagged high levels of self-harm, and the most recent IMB report in 2021 raised serious concerns once again about high levels of self-harm, closely linked to the conditions of an inhumane environment<sup>99</sup> and demonstrating the systemic nature of the problem and the fact that nothing has changed.

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<sup>94</sup> [Chris Donnelly, 23 February 2022, 126/10-11.](#)

<sup>95</sup> [Chris Donnelly, 23 February 2022, 127/3.](#)

<sup>96</sup> [SER000444.](#)

<sup>97</sup> DL000231\_0018-23, paras. 74 – 88.

<sup>98</sup> [Sandra Calver, 1 March 2022, 224/15-21.](#)

<sup>99</sup> [Brook-House-IRC-2015.pdf; Brook-House-IRC-2016.pdf; Annual Report; Brook House 2020 annual report published - Independent Monitoring Boards \(imb.org.uk\).](#)



56. In the circumstances, the treatment that D1538 received on 4 July 2017 and the absence of any appropriate support in connection with the incident thereafter, causing high levels of distress and anguish, violated Article 3 ECHR.

#### The impact of detention on D1538

57. D1538 described how he left detention a different person, with emotional scars from his experience.<sup>100</sup> He was diagnosed by an independent medical expert as suffering severe major depressive disorder with psychotic features, complex PTSD, and dissociative disorder, in part as a result of his childhood traumas but also because of his detention, which was found to have considerably worsened his pre-existing mental ill-health.<sup>101</sup> D1538 described his continuing feelings of fear, and preference to be alone, as well as his low mood, nightmares, and poor self-esteem.<sup>102</sup>

58. This Inquiry has heard evidence of men, such as D1851, who entered immigration detention with no pre-existing mental health diagnoses, but left detention with severe mental ill-health.<sup>103</sup> The situation was therefore even more dangerous for the large majority, who, like D1538, enter detention with a background of trauma and psychiatric conditions. Witnesses, including detention staff<sup>104</sup> and Home Office officials<sup>105</sup>, were well aware of the deleterious impact of detention on mental health. D1538 was no exception to the rule that, whatever the state of one's mental health on entering detention, upon leaving detention, one's mental health becomes much worse - with his preexisting mental illness exacerbated by the experience and inhuman conditions of detention.

#### Conclusions

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<sup>100</sup> DL000231\_0003, paras. 10 - 13.

<sup>101</sup> DL000231\_0041-42, paras. 165 - 169.

<sup>102</sup> DL000231\_0042, para. 168.

<sup>103</sup> e.g. D1851 - [DL0000143\\_0001](#).

<sup>104</sup> "Detainees with mental health issues should not be in detention as it is not suitable for their needs and makes them worse" ([Derek Murphy, 2 March 2022, 16/21-24](#));

<sup>105</sup> "If you spend more than 24 hours in Brook House you're going to develop mental health issues" ([Ian Castle, 15 March 2022, 39/16-19](#)); "There was a general acceptance that detention had the potential to impact negatively on people, especially those with mental health conditions" ([Ian Cheeseman, 16 March 2022, 165/25-166/2](#)).

59. It is clear that in D1538's case Article 3 ECHR was violated systemically, operationally and investigatively and D1538 was the victim of inhuman and degrading treatment, in the myriad ways set out above either taking into account the individual incidents and their cumulative effect. There was a complete failure to identify D1538 as vulnerable and at risk and thus there was a failure to protect him from the harm that he suffered in consequence of his detention at Brook House. Further, there was a complete failure to protect D1538 from the harm caused to him by physical assaults, verbal and psychological abuse. D1538 invites the Chair to find accordingly.

60. Particular causal factors in his mistreatment were:

- (1) The decision by the Home Office to detain him and the fact of his detention at all.
- (2) The absence of any screening mechanism to ensure that relevant factors were taken into account about his health and vulnerabilities before and during detaining him.
- (3) The failures of the healthcare team to identify his mental health vulnerabilities or engage with his physical health concerns.
- (4) The routine unlawful use of removal from association by officers who neither had authority for such matters nor used it for lawful purposes.
- (5) The repeated unlawful use of force against him, and the culture of collusion and dishonesty displayed by the officers involved in these incidents.
- (6) The failure to protect him from attacks by other detainees held at Brook House.
- (7) Exposing him to others' acts of self-harm and attempted suicide, leading to his traumatisation, and then offering inadequate support to respond to this trauma.
- (8) The absence of any monitoring or checks and balances capable of picking up on the abuse and mistreatment exhibited in his case.

61. D1538, traumatised by his experiences at Brook House, but having had the courage to play his part in providing evidence to this Inquiry and now having finally been heard, seeks from the Chair the vindication he deserves, the justice to which he is entitled and the significant changes to the system that are required, so that no other person has to suffer in the way that the many, many victims of this inhumane system have.

**UNA MORRIS**

GARDEN COURT CHAMBERS

CHARLOTTE MCLEAN  
DUNCAN LEWIS SOLICITORS

3 MAY 2022

Documents to be adduced:

- DL00000231 – *Witness statement of D1538* – currently only select pages are on the website
- CJS003348 – *PSU report into D1538's complaint* – currently only select pages are on the website
- CJS001768 – *DCF 1 Rule 40 decision for D1914*
- Disk 55 06 June 2017 – *CCTV footage of the incident on 6 June 2017*
- HOM032504 – *detainee detention history*