

BROOK HOUSE INQUIRY

Second Witness Statement of Mohammed Khan

I provide this statement following my oral evidence given to the Inquiry on Thursday 24 March 2022.

I, Mohammed Khan, of the Professional Standards Unit (PSU), Ordsall Lane, Salford, M53LZ will say as follows:

Introduction

1. I wish to submit this statement to add to some of the answers given by me to the Inquiry, and provide further evidence, in the hope that it is of use to the Inquiry when considering the evidence and drawing conclusions.
2. The PSU investigation reports which were produced following the airing of *BBC Panorama* substantiated a wide range of allegations. The reports were critical of the actions of a number of named custody officers and nursing staff. I believe this is a clear demonstration of PSU's independence, impartiality, and the high standards to which we hold ourselves.
3. The Inquiry has closely scrutinised 21 PSU investigations, and (at least during the hearings itself) in only 2 cases has it identified instances where practice could have been better. I hope it is clear that a robust approach was applied. Having reviewed the documents, it is my view that in some cases the PSU rightly went above and beyond their normal remit to ensure that all matters were addressed for complainants: not just those within the PSU's remit but also matters relating to immigration status, health etc. It is clear to me that the PSU was mindful that the

seriousness of the issues raised by complainants demanded and deserved an all-encompassing Departmental reply from the relevant responsible Director.

My Oral Evidence on 24 March 2022

4. The Inquiry asked whether, to the best of my experience, I understood it as being the Home Office's responsibility to decide when to make a referral to the PSU or whether this could also be the contractor's responsibility.¹
 - a. I would like to clarify that during the Relevant Period, Detention Service Order DSO 3/2015 was in force covering complaints handling. It carried within it the provision that both Home Office staff and contractors should ensure that serious misconduct complaints are referred to the PSU.
 - b. In addition, Detention and Escorting Services ("DES") may commission reviews from the PSU, under DSO 01/2011 Commissioning of Investigations.
5. The Inquiry asked whether previous allegations against an individual would be relevant to an investigation.
 - a. I would like to explain that the PSU are not generally advised of any individual's involvement in previous complaints. Were this to be changed, work would need to be done first to ensure that it was legal, fair, and there was no infringement of data protection principles.
 - b. I am aware that DES keep records and their accreditation team, and notwithstanding the outcome of any investigation may consider whether a Detainee Custody Officer should remain accredited. DES are better placed to describe the exact mechanism.
6. The Inquiry asked whether a complainant should be invited to view and comment on evidence in instances in which the investigating officer had interviewed

¹ 24 March, PDF p2, TS p5

witnesses and received additional evidence or documentary evidence or footage, CCTV footage, or body-worn camera footage.²

- a. Having considered this, in my view there would need to be a decision on a case-by-case basis. It would not be proportionate or practical to adopt this as a mandatory requirement. In some cases it may not be necessary and would just add delays and cause more distress. There may be issues about e.g. whistle-blowers being identified. Each case would have to be considered individually. In any event, any evidence can and is often made available at the appeal stage with the PPO.

7. The Inquiry asked whether there was a risk of undermining the independence of the PSU in some cases where the complaint is made about DES, it is investigated by the PSU, but then DES provides the letter of response to the complainant.³

- a. I think this question misunderstood the process. The usual process is for an outcome letter to be dispatched to the complainant by the PSU. The report and a copy of the letter is also sent to DES who may disseminate them to all who need to ensure follow up on any actions to be undertaken.
- b. It is important to note, and I believe this is what Mr Livingston's question alluded to, that there is an exception to the normal procedure whereby the PSU sends the final reply to a complainant.
- c. The exception is that if a report was commissioned under DSO 1/11 (which pertains to the duty to commission an independent review in certain circumstances) a senior official such as a senior Operations Director for the relevant business area, in this case DES, rather than the PSU might write to individuals who have an interest in the outcome of the review commissioned by the Home Office to explain what the outcome was. This is especially likely if the review contained elements outside the PSU's remit which they may have

² 24 March, PDF p3, TS p11

³ 24 March. PDF p5, TS p17

commissioned separately (e.g. service-related matters, immigration, detailed healthcare or other matters).

- d. In relation to the Brook House cases which Mr Livingston was referring to there were other issues raised by the solicitors of the complainants with DES, which were not for the PSU to answer. It was therefore decided that the PSU would provide paragraphs for inclusion in the overall response sent by the Home Office.
8. The Inquiry asked why the full report was not provided to the complainant and why there were two separate documents (the report and the letter).⁴
- a. This is normal. The report is a document provided for the Home Office. The report covers wider aspects – operational procedures and policy – which may not be relevant to the incident(s) under investigation.
 - b. The reply to the complainant summarises the findings, it is not necessary to replicate information already available to the complainant such as their own medical evidence. We also wish to respond in clear straightforward terms, including appeal rights where appropriate.
9. The Inquiry asked whether it would be appropriate for G4S to have sight of the report and letter prior to it being issued.⁵
- a. PSU operate within a framework set by DES – and the decision to disseminate prior to sending the response would be for DES. Whether it is appropriate depends on why it is done. An appropriate reason to do so might be to give advance warning of any follow up action required.

⁴ 24 March, PDF p5, TS p17

⁵ 24 March, PDF p6, TS p21

10. The Inquiry asked if it would be proper or appropriate for a PSU investigator to ask G4S to provide witness statements rather than the PSU carrying out its own interviews with witnesses.⁶

- a. It may be reasonable, depending on the circumstances. If an investigation has been carried out already by G4S and there is information available, then we would want to review that.
- b. That doesn't mean that we will take that as fact, and it doesn't mean we won't then go and interview those individuals ourselves.

11. The Inquiry asked whether the cases following Panorama would fall under the management review heading or would they were independent investigations, or neither.⁷

- a. The Panorama cases were independent investigations.

Other additional evidence

12. I would like to provide some further evidence, having viewed the evidence of Mr Riley (who I should note cannot be fairly asked to give evidence for the PSU) and Ms Wilkinson.

13. **Previous substantiated complaints against an individual:** these can be taken into account, but unsubstantiated complaints are of course unproven. I would note that if there is a series of unproven allegations, this does not make one necessarily true. Further, previous complaints may or may not have any relevance. For example, a DCO might in the past have been accused of a minor issue or rudeness - that instance may bear no relevance to e.g. an alleged assault. The exact circumstances of the specific complaint being investigated must be considered first and foremost.

⁶ 24 March, PDF p11, TS p41

⁷ 24 March, PDF p12, TS p48

14. There would also be complex legal and fairness issues if the PSU were to be provided with a history of unsubstantiated complaints to take into account in a formal investigation.
15. Of course, separately to the PSU's investigations a complaints history could e.g. trigger monitoring action by the accreditation team. The PSU itself is not responsible for the complaints system, there are complaints teams that filter and triage all allegations.
16. **Training:** The Inquiry asked Ms Wilkinson whether she had any training on taking evidence from vulnerable witnesses and whether her training covered any of the specifics of people who may be complaining in places such as in detention as opposed to complaining about another type of workplace.⁸ I believe I can provide the Inquiry with more comprehensive evidence about PSU training.
17. Everyone in the unit undertook general interview training at a baseline standard, at induction. Everyone in the PSU takes or will be expected to take an accredited Level 7 BTEC course, said to be the equivalent of an undergraduate degree in investigation practices. Beyond this, all investigators complete a designated investigative interview course designed to best achieve the collection of evidence from those making complaints.
18. There are specialisms within the PSU and there is further training relevant to those. Some officers, for example, specialise in dealing with vulnerable witnesses, such as minors. One of the PSU's roles is to meet the Home Office's statutory duty under s.55 of the Borders, Citizenship and Immigration Act 2009 by completing Individual Management Reviews for the Department as a whole where a Serious Case Review has been instigated by a Local Children's Safeguarding Board, when a child has died or been seriously harmed, and abuse or neglect suspected. Training is arranged for these investigators from a variety of agencies such as Barnardos.

⁸ 24 March, PDF p27, TS p105

19. Mandatory Vulnerability Training is available within the Home Office for any PSU investigator who wishes to take it. To further assist our officers, we are also currently researching the availability of specific training in dealing with vulnerable persons applicable to a PSU environment.
20. Specialist training relating to detention also exists – PSU staff have previously attended the Home Office’s specific training on Use of Force in its Detention Estate, and ACDT training (which was adjusted for PSU staff to match with their responsibilities to the detainee and the actions required of them when dealing with the vulnerable) provided by a detention expert.
21. **Offices who have left employment:** During Ms Wilkinson’s evidence, the Inquiry brought to her attention that the only person she invited to interview for her report was DCM Webb, and asked why it was the case that both DCO Fagbo and DCO Instone-Brewer gave evidence to the Inquiry that suggested they weren’t invited to be involved.⁹ Both DCOs Fagbo and Instone-Brewer had left Brook House: Fagbo after being disciplined in October 2017 for inappropriate conduct and Instone-Brewer by resignation. They were no longer employed, and neither had worked on both C and A Wings where the complainant was accommodated and said the verbal and racist abuse took place.
22. Counsel to the Inquiry has referred to a case where an officer, subject to allegations of mistreatment, had had their employment with G4S (rightly) terminated. As a result, they were not invited to interview by the PSU investigating officer. Ultimately allegations of mistreatment against them were found to be unsubstantiated – they were not on the same wing as the complainant.
23. More generally, PSU investigators would not find a case unsubstantiated on the basis that an ex-employee did not attend an interview. It would be assessed on the evidence in its entirety. If the complainant or their adviser felt that not all of their

⁹ 24 March PDF p22, TS p86

concerns were addressed or that there were shortcomings in the PSU investigation, then they could exercise their right of appeal.

24. **Routine disclosure of video:** I do not think it would be at all practicable for a PSU investigator to routinely disclose evidence they have obtained and reviewed as part of an investigation such as body-worn camera footage, CCTV footage, or other records to the complainant. The PSU would be significantly impacted by this in terms of extra work. In some cases it may not be necessary and would just add delays. The disclosure of CCTV or bodycam footage is an operational decision on a case-by-case basis, and raises potential security and privacy issues (as the Inquiry itself experienced, footage of this kind can include images of third parties who will have to be pixilated via a cumbersome process). In oversight bodies with this kind of practice, cases may remain outstanding for many, many, months. The Home Office works to a 12 week standard. In any event, at appeal all evidence is available on request.

<u>Statement of Truth</u>	
I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.	
I am content for this witness statement to form part of the evidence before the Brook House Inquiry and to be published on the Inquiry's website.	
Name	Mohammed Khan

Witness Name: Mohammed Khan
Statement No: 2
Exhibits: None

Signature	<div style="border: 1px dashed black; padding: 10px; display: inline-block;"> Signature </div>
Date	10 October 2022

Witness Name: Mohammed Khan
 Statement No: 2
 Exhibits: None