

18 June 2020

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Sent by email only to: mail@dpglaw.co.uk

Your ref: JT/3554/004/JT

Our refs: 82868/2018; 82870/2018 & 82871/2018

Dear Sir / Madam,

Response to your letter of 18 July 2018: 'Appeal against decision of Home Office Professional Standards Unit (PSU). Home Office reference: 17/1555/1557/26'

I apologise for the time taken to respond to your complaint to the Prisons and Probation Ombudsman (PPO), dated 18 July 2018, on behalf of your client, [D687] about his treatment when he was detained at Brook House Immigration Removal Centre ("Brook House") between 28 October 2015 and 13 May 2017. I will explain, in context, the reason for our delayed response.

Background

In December 2017, [D687] complaint regarding his treatment at Brook House was referred to the PSU to investigate the following 5 allegations:

- Detainee Custody Officers (DCOs) were verbally and racially abusive towards him in November 2016, and that one officer pushed him into his room (allegation 1);
- He suffered reprisals after signing a petition about food quality (allegation 2);
- False information about him was provided and passed to detainees by DCOs (allegation 3);
- Mental health treatment at Brook House was inadequate (allegation 4);
- He was subjected to excessive force on 13 May 2017 (an incident captured on film in the Panorama documentary, "Undercover: Britain's Immigration Secrets", broadcast in September 2017) (allegation 5).

The PSU investigator found against [D687] on all 5 allegations. You wrote to the PPO in July 2018 to complain about the PSU's decisions on allegations 1, 3 and 5. The PSU's decision for allegation 4 was passed to the NHS for consideration. The PSU's decision for allegation 2 was not contested.

The PPO responded to you on 23 July 2018, stating that allegations 1, 3 and 5 were eligible for investigation.

Establishment of Public Inquiry

As you know, following the footage that was broadcast in the BBC Panorama programme: 'Undercover: Britain's Immigration Secrets' in September 2017, the Home Office commissioned the PPO in early 2019 to undertake a special investigation into the decisions, actions and circumstances surrounding the mistreatment of detainees at Brook House. You will be aware that the special investigation has since been converted into a statutory inquiry in accordance with the Inquiries Act 2005 ("Inquiry"). This followed the judicial review (JR) judgment of 14 June 2019. The Inquiry was formally announced by the Home Secretary on 5 November 2019.

A number of complaints (including [D687]) were submitted to the PPO in summer 2018 on behalf of former Brook House detainees. We initially felt that these complaints would be considered as part of the PPO's special investigation, even though some of them did not fit into the timeframe set out in the terms of reference – 1 April 2017 to 31 August 2017; when the filming for Panorama took place. However, as the Inquiry is totally independent from the PPO, we are not involved in its work. In light of this, we have carefully considered whether there is any scope for the PPO to investigate the issues raised in the complaints, and if there would be any worthwhile outcome in doing so.

I apologise for not responding to you sooner; however, we felt it appropriate to wait for the conclusion of the related JR proceedings and for the Inquiry to begin its work.

Consideration

For the following reasons, we consider that a PPO investigation into [D687] complaint (allegations 1, 3 and 5) would not be worthwhile or appropriate in the circumstances:

1. As [D687] was detained at Brook House during April and May 2017, and is featured in the Panorama documentary, it appears that he is eligible for Core Participant (CP) status to the Inquiry. As a CP [D687] would be given the opportunity to address the Inquiry regarding his experiences at Brook House. Although the initial application deadline for CP status was 19 May 2020, the Inquiry's website states that applications received after this date will also be given consideration. If you have not already applied for CP status on [D687]'s behalf, details on how to apply can be found here: <https://brookhouseinquiry.org.uk/deadline-to-apply-for-core-participant-status-announced/>
2. It would not be appropriate or worthwhile for the PPO to conduct a separate investigation into this matter, as we would be duplicating the work of the Inquiry. We feel that the Inquiry is the correct forum for [D687]'s allegations of mistreatment at Brook House to be investigated, and where the most effective outcomes can be achieved and recommendations made.

Please note: The PPO is entirely separate from the Inquiry and has no power to recommend to the Inquiry that they accept complaints for inclusion. Complainants / their legal representatives will need to submit complaints (or any information they feel is relevant) to the Chair of the Inquiry for her consideration. More information can be found here: <https://brookhouseinquiry.org.uk>

Conclusion

Paragraph 22 of the PPO's terms of reference (ToR) state that the Ombudsman may decide not to accept a complaint otherwise eligible for investigation, or to discontinue any ongoing investigation, where she considers that no worthwhile outcome can be achieved, or the complaint raises no substantial issue. For the reasons set out in this letter, we conclude that no worthwhile outcome can be achieved by investigating [D687] complaint given the remit of the Inquiry. It would not be worthwhile for the PPO to duplicate the work of the Inquiry.

You have the right to contest our decision not to investigate this matter. If you wish to do so we would be grateful to receive any written representations by **Thursday 16 July 2020**. We will consider any representations you have made by this date and will aim to respond as quickly as possible, bearing in mind that the Inquiry is now up and running.

I hope this letter clarifies our position and brings you up to date with the PPO's position on this matter.

Yours sincerely

Signature

Neil Mullane
Assistant Ombudsman, Complaints