



Home Office

HOME OFFICE

Home Office Security
Professional Standards Unit

A Home Office investigation into the circumstances surrounding an allegation that [D191] was subjected to assault and ill treatment by Detainee Custody Officers and that he did not receive appropriate medical attention at Brook House IRC.

IMG Ref:

IMG 17 1555/1557/024

Investigating Officer

A Hindmarch

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1. INTRODUCTION

- 1.1 On 12 September 2018 Deighton Pierce Glynn (DPG) Solicitors wrote to The Rt Hon Amber Rudd MP, Secretary of State for the Home Department. The letter was entitled *'Judicial Review- Letter Before Claim', 'Inquiry into immigration detention following Brook House revelation'*.
- 1.2 DPG stated that they wrote on behalf of a number of former Brook House detainees following a recent documentary regarding the regime operated at Brook House Immigration Removal Centre (IRC). The clients represented included [D191] [D191]
- 1.3 Within the annex of the letter the following details regarding [D191] allegations were provided:
- *'Restrained and segregated last year for shouting out 'Why am I here? Why are you detaining me?'* Excessive force was used in the restraint by Officer 'Steve' who caused such pain to his hand he thought it had been broken. Segregated for two days.
 - *Also segregated last year after being unconscious. Not taken to hospital but placed in segregation.*
 - *Complaint of inadequate Healthcare treatment for [Sensitive/Irrelevant]*
- 1.4 It is known that [D191] was resident at Brook House IRC between 12 February 2016 and 12 May 2017.

2. TERMS OF REFERENCE

- 2.1 To investigate the allegations of assault and ill treatment made by [D191] against G4S staff in his statement dated 4 October 2017, provided to PSU on 18 January 2018. Including;
- That in October or November 2016 excessive force was used during a restraint by an officer called 'Steve' who caused pain to [D191] hand. Following the restraint [D191] was segregated for 24 hours.
 - That between January and March 2017, following being unconscious Mr [D191] was segregated for 2 days and Brook House officers did not take him to healthcare for treatment when he was unconscious.
- 2.2 To consider whether there were any organisational deficiencies which may have contributed to [D191] treatment, including but not limited to;
- Supervision of officers or detainees; training of officers; suitability of complaints process for detainees and staff.
- 2.3 To consider and report on whether there is any learning for any individual G4S staff member, or organisational learning for the Home office or G4S, including

whether any change in Home office or G4S policy or policy or practice would help to prevent a recurrence of the incident investigated.

- 2.4 To consider and report on whether the incident highlights any good practice that should be disseminated.
- 2.5 To consider and report on whether any disciplinary offence may have been committed by any G4S staff member involved in the incident, and whether relevant local and national policies/guidelines were complied with.

3. POLICY & GUIDANCE

3.1 Detention Service Order 03/2015 - Handling of Complaints

- 3.1.1 Detention Services Complaints Guidance ensures that the investigation of complaints is dealt with effectively and efficiently. This investigation and report has been conducted in line with the formal investigation procedures set out in the Complaints Guidance.

3.2 Detention Service Order 01/2011 – Commissioning of Investigations

- 3.2.1 Detention services guidance setting out Detention Services obligation to commission investigations into incidents where Articles 2 and/or 3 of the European Convention on Human Rights (ECHR) may have been breached. This investigation and report has been conducted in line with the guidance.

- 3.3 As D191 complaint refers to Use of Force the relevant legislation was considered:

- 3.4 The legal power to use reasonable force is conveyed in paragraph 146 (1) of the Immigration and Asylum Act 1999;

An immigration officer exercising any power conferred on him in the 1971 Act or this Act may, if necessary, use reasonable force.

- 3.5 The investigation has been conducted with reference to paragraph 2(3) of Schedule 11 to the Immigration and Asylum Act 1999 and the Detention Centre Rules 2001:

3.5.1 Paragraph 2(3) of Schedule 11 to the Immigration and Asylum Act 1999

Schedule 11 Detainee Custody Officers Powers and duties of detainee custody officers

- 2(3) As respects a detained person in relation to whom he is exercising custodial functions, it is the duty of a detainee custody officer—
- (a) to prevent that person's escape from lawful custody;
 - (b) to prevent, or detect and report on, the commission or attempted commission by him of other unlawful acts;
 - (c) to ensure good order and discipline on his part; and
 - (d) to attend to his wellbeing.

3.5.2 Detention Centre Rules 2001:

Part III. Maintenance of Security and Safety
General Security and Safety

39. (1) Security shall be maintained, but with no more restriction than is required for safe custody and well ordered community life.
(2) A detained person shall not behave in any way which might endanger the health or personal safety of others.
(3) A detained person shall not behave in any way which is inconsistent with his responsibilities under the compact.

Removal from Association

40. (1) Where it appears necessary in the interests of security or safety that a detained person should not associate with other detained persons, either generally or for particular purposes, the Secretary of State (in the case of a contracted-out detention centre) or the manager (in the case of a directly managed detention centre) may arrange for the detained person's removal from association accordingly.
(2) In cases of urgency, the manager of a contracted-out detention centre may assume the responsibility of the Secretary of State under paragraph (1) but shall notify the Secretary of State as soon as possible after making the necessary arrangements.
(3) A detained person shall not be removed under this rule for a period of more than 24 hours without the authority of the Secretary of State.
(4) An authority under paragraph (3) shall be for a period not exceeding 14 days.
(5) Notice of removal from association under this rule shall be given without delay to a member of the visiting committee, the medical practitioner and the manager of religious affairs.
(6) Where a detained person has been removed from association he shall be given written reasons for such removal within 2 hours of that removal.
(7) The manager may arrange at his discretion for such a detained person as aforesaid to resume association with other detained persons, and shall do so if in any case the medical practitioner so advises on medical grounds.
(8) Particulars of every case of removal from association shall be recorded by the manager in a manner to be directed by the Secretary of State.
(9) The manager, the medical practitioner and (at a contracted-out detention centre) an officer of the Secretary of State shall visit all detained persons who have been removed from association at least once each day for so long as they remain so removed.

Use of Force

41. (1) A detainee custody officer dealing with a detained person shall not use force unnecessarily and, when the application of force to a detained person is necessary, no more force than is necessary shall be used.

(2) No officer shall act deliberately in a manner calculated to provoke a detained person.

(3) Particulars of every case of use of force shall be recorded by the manager in a manner to be directed by the Secretary of State, and shall be reported to the Secretary of State.

Part IV. Officers of Detention Centres

General duty of officers

45. (1) It shall be the duty of every officer to conform to these Rules and the rules and regulations of the detention centre, to assist and support the manager in their maintenance and to obey his lawful instructions.

(2) An officer shall inform the manager and the Secretary of State promptly of any abuse or impropriety which comes to his knowledge.

(3) Detainee custody officers exercising custodial functions shall pay special attention to their duty under paragraph 2(3)(d) of Schedule 11 to the Immigration and Asylum Act 1999 to attend to the well-being of detained persons.

(4) Detainee custody officers shall notify the health care team of any concern they have about the physical or mental health of a detainee.

(5) In managing detained persons, all officers shall seek by their own example and leadership to enlist their willing co-operation.

(6) At all times the treatment of detained persons shall be such as to encourage their self-respect, a sense of personal responsibility and tolerance towards others.

4. OFFICER SUBJECT TO INVESTIGATION

- 4.1
- DCM Steve Webb (no longer employed by G4S)

4.2 DCM Webb was identified by [D191] description of him and from the Use of Force documentation provided by Brook House IRC.

4.3 DCM Webb had his accreditation revoked by the Home Office for an unrelated matter and as a result was unable to work as a Detainee Custody Manager, he is no longer employed at Brook House IRC and has not been interviewed. A copy of his Use of Force report has been made available to the investigation

5. SUMMARY OF INVESTIGATION

5.1 On 12 September 2017 Deighton Pierce Glynn (DPG) Solicitors wrote to The Rt Hon Amber Rudd MP, Secretary of State for the Home Department. Included within the letter were allegations relating to [D191] treatment whilst detained within Brook House IRC.

5.2 On 17 November 2017 the allegations raised by Deighton Pierce Glynn were accepted for investigation by the Home Office Professional Standards Unit. Individual claimant's allegations and Terms of Reference were assigned to Investigating Officers on 22 November 2017.

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- 5.3 On 4 December 2017 the Investigating Officer wrote to DPG confirming that she had been appointed to investigate the allegations relating to [D191] and requesting contact details for him.
- 5.4 On 11 December 2017 the Investigating Officer wrote to DPG advising that no response had been received from them and requesting contact details for the person representing [D191]
- 5.5 On 12 December 2017 Ms Joanna Thomson of DPG wrote to advise that she was dealing with the matter and that she was contacting [D191] in Somaliland and would reply as soon as possible. The investigating Officer requested details of the dates of the incidents referred to in the letter of 12 September 2017.
- 5.6 On 10 January 2018 the Investigating Officer wrote to DPG noting that no further correspondence had been received and asking if there was any further information to add prior to the investigation proceeding with the information provided. Ms Thomson replied on the same day to say that she was in contact with [D191] but was awaiting funding forms from him before proceeding to advise him.
- 5.7 On 11 January 2018 the Investigating Officer wrote to DPG requesting that any additional information to be considered should be provided by 18 January 2018.
- 5.8 On 17 January 2018 a medical consent document was sent to DPG for signature by [D191]
- 5.9 On 18 January 2018 the PSU received a statement regarding the alleged events from [D191] the statement was dated 4 October 2017.
- 5.10 On 22 January 2018 the PSU received [D191] consent to receive a copy of his medical records. These were provided by Brook House Healthcare on 24 January 2018.
- 5.11 On 23 January 2018 the PSU wrote to DPG noting attempts had been made since 4 December 2017 to arrange to speak with [D191] it was advised that if no further evidence or interviews are forthcoming by Thursday 25 January the investigation would proceed with the evidence available. A response was received advising that in order to assist [D191] DPG were awaiting a form from [D191] regarding funding under the Legal Help Scheme.
- 5.12 On 24 January 2018 DPG advised PSU that they were expecting to receive the fee forms on 2 February 2018 and suggesting a telephone interview on 5 February 2018.
- 5.13 On 25 January 2018 the Investigating Officer advised DPG of other commitments on 5 February 2018 and in order not to cause delay any questions would be forwarded in writing for [D191] response by 5 February 2018.
- 5.14 On 1 February 2018 the PSU sent a list of questions for [D191] response via DPG Solicitors, the date for response was extended to 7 February 2018.

- 5.15 On 12 February 2018 clarification was sought from Brook House Healthcare regarding rescheduled offsite medical appointments. A response was received on 13 February 2018.
- 5.16 On 12 February 2018 the Investigating Officer suggested amendment to the initial Terms of Reference following review of [D191] statement which gave further information relating to his allegations. This was agreed by Alan Gibson, Detention Operations on 13 February 2018.
- 5.17 On 15 February 2018 [D356] was interviewed by the Investigating Officer, via telephone.
- 5.18 On 16 February 2018 DCO Slim Bessaoud was interviewed by the Investigating Officer, via telephone.
- 5.19 On 6 March 2018 a response was received to the questions sent to [D191] via his solicitors on 1 February 2018.

6. SUMMARY OF EVIDENCE

- 6.1 Evidence of [D191]
- 6.1.1 [D191] evidence is found within:
- Deighton Pierce Glynn letter of 12 September 2017 (Annex A1)
 - Witness Statement of [D191] dated 4 October 2017 (Annex A2)
 - Response to questions received 6 March 2018 (Annex A3)
- 6.1.2 [D191] allegations are summarised:
- 6.1.3 Within the solicitors letter of 12 September 2017 it was alleged that [D191] was restrained and segregated last year (2016) for shouting out 'Why am I here? Why are you detaining me?'
- 6.1.4 It was also alleged that excessive force was used in restraint by Officer 'Steve' who caused such pain to [D191] hand that he thought it had been broken. [D191] [D191] was segregated for two days.
- 6.1.5 It was also alleged that [D191] was segregated last year after being unconscious. He was not taken to hospital but placed in segregation.
- 6.1.6 There was an allegation of inadequate Healthcare treatment for [Sensitive/Irrelevant]
- 6.1.7 Within his witness statement [D191] stated that he was held at Brook House under Immigration powers from 12 February 2016 to May 2017. [D191] recalled that he had signed a Voluntary Departure form and had been advised that return would take between four and eight weeks.
- 6.1.8 [D191] recalled that initially he was excited at the prospect of returning; however his detention became one of the most horrifying experiences of his life. [D191]

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recalled that he experienced threats, abuse, excessive use of force and inappropriate use of segregation on two occasions.

- 6.1.9 [D191] stated that he cannot recall the dates of the incidents but the first one took place approximately eight or nine months after arriving at Brook House IRC. [D191] awoke and was upset and confused about the length of time he had been in detention, he felt mentally and physically exhausted.
- 6.1.10 Sometime between 10:00 and 11:00 hours [D191] went on to the landing and started shouting with frustration *'What am I doing here when I was told that I would go back home?'* [D191] recalled that three officers, rather than trying to calm him down came to him screaming. One of the officers was a manager named Steve; he is the biggest man in Brook House IRC, known for his build, height and strength.
- 6.1.11 Steve screamed *'go back in your cell and be quiet'*. [D191] said he was looking for answers and needed help but the officers started to shout more aggressively and [D191] returned to his room. In the room the officers jumped on [D191] his arms were pulled behind his back, one officer held his right hand and Steve aggressively held his left hand, bending [D191] fingers and pulling his arm with increased force.
- 6.1.12 [D191] recalled that he was terrified and screamed in pain, he asked the officer to stop, but he did not. The officers pushed [D191] to the floor causing pain and agony he felt his face scrape the ground and his arms were held forcefully behind his back. [D191] shouted in pain and Steve shouted at him *'why are you shouting?'* and he said that the officers would hurt him more if he did not stop shouting. It is the norm that when officers want to hurt a detainee they ensure that other detainees are locked in their cells so that they don't witness the incidents.
- 6.1.13 The officers then lifted [D191] from his cell and dragged him to segregation where he remained for 24 hours. Steve came to see [D191] the following day, he told him that he should not behave that way again and that he had been inciting violence.
- 6.1.14 The second incident occurred between January and March 2017, at around 15:00 hours. [D191] smoked the drug Spice which caused him to pass out. As [D191] came round he was being restrained violently by two officers. Rather than seeking medical care the officers dragged him to the segregation unit where he was isolated for two days.
- 6.1.15 [D191] recalled other incidents where he was not involved but that he had witnessed at Brook House. He did not provide any dates, or names of detainees or officers involved.
- 6.1.16 In relation to his Healthcare issue, [D191] stated that at one point he had a problem with [Sensitive/Irrelevant]. He was told that he needed to see a specialist [Sensitive/Irrelevant] and that an appointment would be made. [Sensitive/Irrelevant] got worse but he never heard anything about the appointment. When [D191] pressed the Healthcare department about this, he was told that he had missed three

appointments; he asked why he had not been told about the appointments. [D191] [D191] was told they were short staffed.

- 6.1.17 When [D191] was taken to the [Sensitive/Irrelevant] he was told that they had arrived at the wrong time, he saw a [Sensitive/Irrelevant] once whilst detained and was meant to have a follow up appointment but was not taken again. His [Sensitive/Irrelevant] improved by itself, although it has recently returned.

6.2 Brook House documentary evidence

- 6.2.1 The initial evidence relating to [D191] allegations stated that the incidents referred to occurred 'last year', (taken to mean 2016) however there was no indication of when in 2016 the incidents referred to took place. The IRC were asked to provide details of all records of UOF and/or segregation for 2016 relating to [D191]
- 6.2.2 In response the investigation received an email dated 8 December 2017 (**Annex B1**) in which it was advised that [D191] arrived on 12 February 2016 and left Brook House IRC on 12 May 2017. On 28 October 2016 he was taken to the CSU 'under the influence' and returned to A-wing later that day, there was 'no C&R and no Rule 40'. G4S also confirmed that whilst not in 2016, but on 27 April 2017, [D191] [D191] had a fight whilst under the influence. Control and Restraint and Rule 40 paperwork had been completed and this was provided. Brook House IRC also provided CCTV from this day.
- 6.2.3 Additionally details of two previous complaints were provided to the investigation:
- **Complaint dated 21 December 2016 (Annex B2 & B3)**
A DCF09 complaint form was completed by [D191] in which he complained that a letter sent to him containing money had not been received. This was recorded under reference number CMS131000135813. It can be seen that [D191] accepted £30.00 compensation from G4S following a response provided by G4S on 23 March 2017.
 - **Complaint dated 28 March 2016 (believed to be 28 March 2017) (Annex B4 & B5)**
A DCF09 form was completed by [D191] in which he complains that he has remained on closed visits since August 2016. This complaint was recorded under reference number: CMS 131000014051. A response was provided by G4S on 29 March 2017.

6.3 Evidence of Rule 41 - Use of Force Records (Annex C1)

- 6.3.1 Details of all UOF incidents were requested from Brook House IRC, the only documents provided related to a Use of Force on 27 April 2017.

6.4 Use of Force Record of Detainee Custody Manager Steve Webb

- 6.4.1 DCM Webb records that as of 27 April 2017 he worked as a Residential Manager in charge of Arun (A) and Eden (E) Wings at Brook House IRC. At around 18:10

hours he was on A wing when he heard shouting, screaming and spitting sounds from the first floor. DCM Webb proceeded to the first floor where he saw [D191] behaving very strangely. DCM Webb, accompanied by DCO Bessaoud approached [D191] and asked if he had taken anything.

- 6.4.2 [D191] made his way back to his room and started to throw himself around the room and onto his bed and then the floor. Another detainee, [D356] was in the room and was trying to communicate with [D191]. The officers asked [D356] to leave and let them deal with the matter. DCO Lainchbury had also arrived.
- 6.4.3 When [D356] turned to leave the room, [D191] who had stood on his bed and was holding the remote control for the television shouted 'say [D191], say [D191]'. [D191] then moved forward and struck [D356] on his head with the remote control. DCM Webb recorded that he moved forward and took hold of [D191] to stop him striking [D356] again.
- 6.4.4 [D191] dropped his weight onto the bed and as DCO Bessaoud held his right arm, DCM Webb took the left arm and [D191] wrists were placed in the small of his back. DCM Webb recorded that he located the finger and thumb and moved the left arm to the final lock position. He instructed DCO Bessaoud to do the same, which he did. DCM Webb instructed [D191] not to resist and to do what he was instructed.
- 6.4.5 Due to [D191] having assaulted another detainee, DCM Webb wanted to move him off the wing as soon as possible. Officer Lainchbury, who had moved into the head support position, was instructed to walk in front and open the doors whilst DCM Webb and DCO Bessaoud walked [D191] off the wing, descending the stairs down to the Care and Separation Unit. [D191] was searched and when asked if he would walk into the room, said he would. [D191] walked into the room and sat on the bed. Healthcare was asked to look at [D191] as DCM Webb suspected he had been smoking Spice. Healthcare arrived and had no concerns over [D191] they also looked at [D356] and no marks were noted.

6.5 Evidence of Detainee Custody Officer Slim Bessaoud

- Use of Force report dated 27 April 2017
- Interview of 16 February 2018 (Annex C2)

- 6.5.1 DCO Bessaoud recorded in his Use of Force report that at around 18:25 hours on 27 April 2017 he was working on A wing when he heard shouting from the middle landing. He proceeded to the landing, followed by DCM Webb. DCO Bessaoud found [D191] shouting and screaming loudly and trying to attack another detainee, [D356]. [D356] grabbed [D191] and took him to [D191]'s room, DCO Bessaoud followed to keep an eye on things as [D191] continued to be aggressive.
- 6.5.2 When DCO Bessaoud arrived at the room he saw [D191] fall to the floor, he then got up and stood on the bed, he was still screaming and shouting and acting in a bizarre manner.

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- 6.5.3 DCO Bessaoud recalled that he tried to talk to [D191] to calm him down but as he did so, [D191] got the remote control and hit [D191] to the back of the head with enough force to make a loud crack. DCM Webb and DCO Bessaoud decided to place [D191] in lock after witnessing him assault another detainee. DCO Bessaoud recorded that he took control of [D191] right arm and placed it into a straight arm lock and then into a final lock.
- 6.5.4 The officers then took [D191] down the stairs to the Care and Separation Unit. During the transfer [D191] continued to shout and scream. On arrival at the CSU [D191] was searched and placed in a room. DCM Webb asked the duty Healthcare team to check [D191] in DCO Bessaoud's opinion [D191] was under the influence of some form of drug, he is known in the centre for smoking the drug, Spice.
- 6.5.5 At interview DCO Bessaoud recalled that he was on the middle landing of A wing when he heard [D191] shouting and being aggressive. [D191] appeared to be under the influence of illegal drugs as his behaviour was strange and aggressive. [D191] was one of the detainees known for using Spice.
- 6.5.6 DCO Bessaoud noticed that [D191] was becoming aggressive toward other detainees, and he followed him towards his room, he was also followed by Detainee Custody Manager Steve Webb. Another detainee, [D356] was with [D191]. DCO Bessaoud recalled that [D356] grabbed [D191] with his arms around him in a way similar to a 'bear hug', and he walked [D191] to his room. DCO Bessaoud thinks that [D356] was trying to prevent [D191] from conducting any wrongdoing.
- 6.5.7 In the room [D191] continued to scream and the officers tried to calm [D191] by talking to him, DCO Bessaoud cannot remember what words were used however [D191] did not respond to the officers. [D191] did not seem to have any control, he was tripping over and clumsy, at one point he fell to the floor then he got up and was jumping up and down on his bed. [D191] then grabbed the remote control for the television and he hit [D356] on his head with it and DCO Bessaoud heard a loud crack.
- 6.5.8 DCO Bessaoud recalled that it was then necessary for the officers to take control of [D191]; they used reasonable force to ensure everyone's safety. Officer Bessaoud recalled that he was scared that [D191] would strike him; he recalled that his heart was racing as [D191] was going mad and was not in control of himself. DCO Bessaoud referred to his Use of Force report and confirmed that he controlled the right arm during the incident, taking it into a straight arm lock and then into a final lock. DCO Bessaoud does not now recall whether [D191] was stood up, sitting or lying on the bed, he does not recall him being on the floor at this time.
- 6.5.9 During the restraint [D191] was fighting back and then when he was walked down to CSU he did not want to walk but the officers managed to escort him down in final locks. On arrival in CSU [D191] was placed in Room 6. DCO Bessaoud does not recall any use of handcuffs nor does he recall [D191] sustaining an injury to his face. DCO Bessaoud would estimate that the incident in the room was

of around 10 minutes in duration.

6.5.10 DCO Bessaoud was asked if he recalled DCM Webb advising [D191] that if he did not stop screaming he would feel more pain, he stated that he probably would say something like that, maybe that if [D191] did not comply he would feel more pressure through his wrist. DCO Bessaoud did not recall [D191] objecting about pain in his left hand whilst in the room, he may have said something about his hand en route to CSU, and he thinks that DCM Webb may have released the locks a bit.

6.5.11 DCO Bessaoud does not recall having any concerns regarding DCM Webb's restraint of [D356] in relation to the level of force used and he would not do anything differently with hindsight.

6.6 Use of Force Report of Detainee Custody Officer Jack Lainchbury

6.6.1 DCO Lainchbury recalled that he working on A wing on 27 April 2017 when he noticed [D191] shouting on the first floor. He went with DCM Webb and DCO Bessaoud to speak with [D191].

6.6.2 DCO Lainchbury recorded that on arrival at [D191] room it was clear that he had taken an illegal substance; he was acting aggressively towards other detainees and shouting. Other detainees were asked to leave the room and all did except [D356] who tried to speak to [D191] and calm him down. This did not work and [D191] proceeded to strike [D356] on his head.

6.6.3 Force was then used by the officers in order to maintain everyone's safety and welfare. DCO Lainchbury recalled that initially he supported [D191] head, however prior to proceeding to the Care and Separation Unit [D191] had calmed sufficiently that head support was no longer required. [D191] was taken to the CSU; he remained uncompliant throughout the incident.

6.6.5 DCO Lainchbury has since resigned from his position as a Detainee Custody Officer and therefore was not interviewed.

6.7 Use of Force Documentation – F213 Section 3 – Healthcare Report.

6.7.1 It is recorded that a member of staff from Healthcare, RGN D Batchelor saw [D191] after the incident, at 18:40 hours. The report states:
'Called to CSU – detainee placed on Rule 40 - attacked another detainee, however he apparently knocked face on table in room – swelling to right eye apparent, no open wounds noted'.

6.8 Use of Force Debrief

6.8.1 This document records that:

'On 28/4 at 18:39 hours you, [D191] were relocated to the Care and Separation Unit, under Rule 40. The reason for your relocation was: you were under the influence of a substance and became refractory assaulting

a fellow detainee'.

- 6.8.2 The document has been countersigned by an officer indicating that [D191] refused to sign.

6.9 Evidence of use of Rule 40.

- 6.9.1 Rule 40 evidence is contained in:

- **The Detention Centre Rules 2001, Rule 39, Rule 40 and Rule 41 (Annex D1)**
- **Extracts from Care and Separation – DCF1, BH/189/17 (Annex D2)**
- **Removal from Association Initial Health Assessment (Annex D3)**

- 6.9.2 The Detention Centre Rules 2001 (DCR) state at Rule 39(2) "A detained person shall not behave in any way which might endanger the health or personal safety of others".

- 6.9.3 DCR Rule 40(1) states "Where it appears necessary in the interests of security or safety that a detained person should not associate with other detained persons, either generally or for particular purposes, the Secretary of State (in the case of a contracted-out detention centre) or the manager (in the case of a directly managed detention centre) may arrange for the detained person's removal from association accordingly".

- 6.9.4 DCR Rule 40(2) states "In cases of urgency, the manager of a contracted-out detention centre may assume the responsibility of the Secretary of State under paragraph (1) but shall notify the Secretary of State as soon as possible after making the necessary arrangements".

- 6.9.5 DCR Rule 40(3) states "A detained person shall not be removed under this rule for a period of more than 24 hours without the authority of the Secretary of State".

- 6.9.6 DCR Rule 40(6) states "Where a detained person has been removed from association he shall be given written reasons for such removal within 2 hours of that removal".

- 6.9.7 DCR Rule 40(9) States "The manager, the medical practitioner and (at a contracted-out detention centre) an officer of the Secretary of State shall visit all detained persons who have been removed from association at least once each day for so long as they remain so removed".

- 6.9.8 DCR Rule 41(1) states 'A detainee custody officer dealing with a detained person shall not use force unnecessarily and, when the application of force to a detained person is necessary, no more force than is necessary shall be used'.

- 6.9.9 DCF-1, BH/189/17 shows 'Date Located into R 40 27-4-17' and 'Time Located into R40 18:30'. Authority for initial 24 hours RFA (Cases of Urgency) shows removal was authorised by Detainee Custody Manager, S Webb on 27/4/17 at 18:30.

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- 6.9.10 DCF-1, BH/189/17 shows all relevant parties initially notified between 19:45 and 20:00. Entries show who was notified and by whom.
- 6.9.11 DCF-1, BH/189/17 states reasons for removal from association as '[D191]' placed on Rule 40 for good order of the centre, assaulting another detainee with a television remote control'.
- 6.9.12 DCF-1, BH/189/17 shows '[D191]' was removed from Rule 40 on 28/4/17 at 12:30. Closing notifications were recorded between 10:30 and 15:15 including names of persons contacted with the exception of the Duty IMB where neither time nor person contacted is recorded.
- 6.9.13 DCF-1, BH/189/17 records documentation was copied to all relevant parties but does not record and times or dates with the exception of the Detainee. It is recorded for the Detainee 'Copy given by hand' on 27/4/17 at 19:45.
- 6.9.14 Removal from Association Initial Health Assessment was completed on 27/4/17 at 18:20 by Donna Batchelor and records no clinical reason to advise against removal from separation.
- 6.9.15 Record of Actions and Observations for '[D191]', records at Page 1, line 1: (Other than "27" date is illegible but later lines clearly record the date as 27/4/17), 18:20 'Ali was placed into CSU06, force has been used, placed on rule 40 for being under the influence and assault of another detainee'.
- 6.9.17 Record of Actions and Observations, for '[D191]', records at Page 2, line 1: 28/4/17, 09:50 "Dr Chaudhry- pt seen by healthcare".
- 6.9.18 Record of Actions and Observations, for '[D191]', records at Page 2, line 6: 28/4/17 10:30 Detainee seen and spoken to by the H.O. Is very frustrated with HO. Apologised for his behaviour. Coming off R40".
- 6.9.19 Record of Actions and Observations, for '[D191]', records at Page 2, line 10: 28/4/17 11:00 'Safer Custody Visit – Ali spoke about his smoking of spice yesterday and would like support to get off of it – will refer to RAPT'.

6.10 Evidence of CCTV recordings.

- 6.10.1 CCTV was provided by Brook House IRC to the investigation, the footage from several fixed cameras is summarised:
- 6.10.2 Camera 2143A B 1F Assoc Corridor 2: Footage runs from 18:16:59 to 18:17:59.
The view is of the corridor. '[D191]' enters from a door on the left side escorted by two officers who hold his arms. A third officer is seen to open and close doors for the party. '[D191]' is struggling against the officers, he is arching his back and is seen in discussion with them. DCM Webb is seen throughout to '[D191]' left side.
- 6.10.3 Camera 2153 A B 1F Activ Stair: Footage runs from 18:16:51 to 18:17:55
The view is of a stairwell with a corridor leading off. '[D191]' enters from a door

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to the left of the screen; he is escorted by two officers who hold his arms. A third officer is seen to open and close doors for the party. [D191] is resisting the officers; he has his legs out straight and is not walking. DCM Webb is seen throughout to [D191] left side.

- 6.10.4 Camera 2111 A B GF Assoc Corridor 2: Footage runs from 18:17:52 to 18:18:58
The view is of a stairwell with a corridor leading off. [D191] enters from a door at the far end of the corridor, facing the camera and exits through a door on the left which is signposted 'Eden Wing' and 'Care and Separation Unit'. He is escorted by two officers who hold his arms. A third officer is seen to open and close doors for the party. DCM Webb is seen throughout to [D191] left side.
- 6.10.5 Camera 2113 RFA 3: Footage runs from 18:17:53 to 18:19:04
The view is of the main room housing the pool table. Several detainees are seen playing pool. At the far end of the room [D191] and the officers can be seen to enter and they then walk the length of the room. [D191] is restrained by the officer holding his arms. DCM Webb is seen to [D191] left side.
- 6.10.6 Camera 2136 A 1F Assoc 1: Footage runs from 18:09:49 to 18:18:38
The view is of the 1st floor landing area; the door of several rooms can be seen leading off the landing. There is some activity outside a room halfway down the right hand side of the landing and at 18:10:58 two DCOs are seen to approach [D191] [D191] room door and look into the room. At this time there are also several other detainees looking into the room. Several detainees are standing opposite the door looking over.
- 6.10.7 At 18:11:42 [D191] is seen to run out of his room and down the landing. At 18:11:49 [D191] is seen being held by another detainee and appears to be forcibly taken back into his room. Two officers are seen to follow into the room. At 18:12:14 DCM Webb is seen to arrive at the room and look in prior to entering, he is seen at various times in the doorway of the room before entering again at 18:15:01. At 18:16:46 [D191] exits the room; he is restrained by two officers holding his arms (DCM Webb is seen to his left side). The group walks away from the camera point and out of view.
- 6.11 Medical records of [D191]**
- 6.11.1 [D191] gave permission for the PSU to access a copy of the medical records held for him at Brook House IRC. These were received on 24 January 2018 and included copies of appointments correspondence (Annex E1). The salient entries relating to [D191] [D191] complaint are summarised at Annex E2:
- 6.11.2 There are also references within the records relating to [D191] use of New/Novel Psychoactive Substances i.e. Spice:

28 October 2016 08:37 Hours - Healthcare Assistant K McPhoy
Oscar 1 phoned to advise that detainee was in his room behaving strangely. H/C carried out observations BP118/78 P87 SpO2 84-76 variable. Detainee stated that he had smoked about 10-15 mins before. Observed to be having mini spasms. Taken to E wing for observation.

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Plan: to be nursed on E wing.

28 October 2016 11:50 hours – Nurse E Omoraka

Detainee appears more stable when seen in E wing this morning; he lost his job in the kitchen for smoking Spice which he admitted. He later reported not happy at losing job, he went again and smoked 2 puffs of Spice offered to him by a friend he met on the stairs. BP 124/78, pulse 76, temp 36.9 sats 98%

28 October 2016 13:23 hours – Nurse E Omoraka

Detainee was seen at CSU taking his lunch, his BP 127/76, pulse 68, sats 98%. He appears more stable and pleasant.

19 January 2017 04:42 & 04:46 hours – Staff Nurse Sihlali

History: 20:00 hours. First Response, on our arrival three detainees were in a room and Ali had vomited. Examination: He admitted that he had taken illicit drugs with his roommate. Diagnosis: BP 120/82, pulse 70 and sats 985, was taken to E wing

History: 22:00 hours. Went to check on detainee on E wing. Observations were checked BP 110/74, pulse 88 and sats 98%. Examination: was taken back to his wing after observations were normal

2 May 2017 16:26 hours - Healthcare Assistant E Owens

Seen on A wing in another detainee's room prior to roll count. Suspected NPS incident. Detainee appeared under the influence. Observations taken and all within normal range. Advised to attend Healthcare if needed.

12 May 2017 08:46 hours – Staff Nurse Parr

Written in retrospect. 1 response o A wing – Query NPS use, [D191] was alert but seemed confused but followed commands, understood questions and replied appropriately when asked.

6.12 Evidence of [D356]

6.12.1 [D356] evidence is contained in:

- **Interview of 15 February 2018 (Annex F1)**

6.12.2 [D356] evidence is summarised as follows:

6.12.3 [D356] confirmed that he recalled an incident where [D191] was restrained. [D356] was playing pool on the middle landing of the wing and he noticed that another detainee was talking to [D191] and trying to calm him but it was escalating. [D356] recalled that [D191] was intoxicated with Spice; he was having an 'episode'. Whilst [D356] does not recall exactly what was happening he saw that [D191] kept trying to come out of his cell, '*it was like he was possessed in a way, and he kept thinking that people were trying to kill him*'.

6.12.4 [D356] recalled that he told [D191] to go back to his room; he recalled that he carried him back to his room and tried to put him to bed but got back out. [D356]

[D356] recalled that officers arrived and tried to help. When asked what had alerted the officers to [D191] he said he thinks that someone watching the CCTV cameras raised an alarm about [D191]. [D356] recalled that there were three officers, 'Big Steve', Salim, who still works at Brook House IRC, and another one.

6.12.5 [D356] recalled that [D191] then stood on the bed in the left side of the room, he was saying a *'whole lot of stuff'* and shouting, [D356] recalled him saying *'A [D191]'* [D191] and the officers were saying *'calm down, calm down'* and [D356] was telling [D191] to *'relax', 'sit down'* and to drink some water. [D356] continued to say *'relax, look [D191] I am your friend, relax'* and he moved in closer. It was then that [D191] struck [D356] with the remote control for the television. This was with sufficient force that the remote control was broken, although [D356] was not injured. [D356] stated that because he was high [D191] did not know what he was doing.

6.12.6 One of the officers then got hold of [D191], they said *'that's not right, hitting others'*; they moved in to restrain [D191] before taking him away to E wing for the night. [D356] confirmed that he has seen several restraints during his time at Brook House IRC often due to the use of Spice. Whilst he does not recall exactly what the officers did, none of their actions caused him any concern and he stated that once [D191] had struck him the *'risk had changed'*. The officers had tried to calm [D191], that did not work and so they got hold of him. When asked if he thought it was a normal restraint, [D356] agreed.

6.12.7 [D356] recalled that [D191] had a bruise on his eye when he saw him the following day; he does not know how he got that. [D191] was moved to another wing for around a month before returning back to E wing. [D356] recalled that [D191] said he had injuries but he does not recall what these were although his eye looked swollen; [D356] added that he had not seen the officers escort Mr [D191] all the way to E wing. [D356] stated that it has been a long time since this matter.

7. CONSIDERATION OF EVIDENCE AND CONCLUSIONS

7.1 **Allegation 1: That in October or November 2016 excessive force was used during a restraint by an officer called 'Steve' who caused pain to [D191] hand. Following the restraint [D191] was segregated for 24 hours.**

7.1.1 Review

7.1.2 [D191] stated that he cannot recall the dates of the incidents but the first one took place approximately eight or nine months after arriving at Brook House IRC, which was in February 2016. [D191] awoke and was upset and confused about the length of time he had been in detention and sometime between 10:00 and 11:00 hours he went on to the landing and started shouting *'What am I doing here when I was told that I would go back home?'* [D191] recalled that three officers came to him screaming. One of the officers was a manager named Steve; he is the biggest man in Brook House IRC, known for his build height and strength.

- 7.1.3 Steve screamed 'go back in your cell and be quiet'. [D191] said he was looking for answers and needed help but the officers started to shout more aggressively and [D191] returned to his room. In the room the officers jumped on [D191] his arms were pulled behind his back, one officer held his right hand and Steve aggressively held his left hand, bending [D191] fingers and pulling his arm with increased force.
- 7.1.4 [D191] recalled that he was terrified and screamed in pain, he asked the officer to stop, but he did not. The officers pushed [D191] to the floor causing pain and agony, he felt his face scrape the ground and his arms were held forcefully behind his back. [D191] shouted in pain and Steve shouted at him 'why are you shouting?' and he said that the officers would hurt him more if he did not stop shouting. It is the norm that when officers want to hurt a detainee they ensure that other detainees are locked in their cells so that they don't witness the incidents.
- 7.1.5 The officers then lifted [D191] from his cell and dragged him to segregation where he remained for 24 hours. Steve came to see [D191] the following day, he told him that he should not behave that way again and that he had been inciting violence.
- 7.1.6 The IRC advised the investigation that force was used on [D191] on one occasion only, 27 April 2017. Use of Force records were provided for three officers all of which confirmed an incident which started on the middle landing of A wing, where [D191] resided at the time and a restraint occurring in his room. It was not possible to interview two officers as they have since left the centre; however interviews were conducted with the DCO who controlled [D191] right arm and the other detainee, [D356] who was present in the room during the restraint.
- 7.1.7 At interview DCO Bessaoud being on the middle landing of A wing when he heard [D191] shouting and being aggressive, he appeared to be under the influence of illegal drugs as his behaviour was strange. DCO Bessaoud noticed that [D191] was becoming aggressive toward other detainees, and he followed him towards his room, and DCM Webb was behind him. Another detainee, [D356] had grabbed [D191], with his arms around him like a 'bear hug', and he walked [D191] to his room. DCO Bessaoud thinks that [D356] was trying to prevent [D191] from conducting any wrongdoing.
- 7.1.8 In the room [D191] continued to scream, the officers tried to calm [D191] by talking to him, DCO Bessaoud cannot remember what words were used however [D191] did not respond to the officers. [D191] did not seem to have any control, he was tripping over and clumsy, at one point he fell to the floor then he got up and was jumping up and down on his bed. [D191] then grabbed the remote control for the television and he hit [D356] on his head with it and DCO Bessaoud heard a loud crack.
- 7.1.9 DCO Bessaoud recalled that it was then necessary for the officers to take control of [D191] they used reasonable force to ensure everyone's safety. Officer Bessaoud recalled that he was scared that [D191] would strike him; he recalled that his heart was racing as [D191] was going mad and was not in control. DCO Bessaoud controlled the right arm taking it into a straight arm lock and then into a

final lock. DCO Bessaoud does not now recall where [D191] was positioned during the restraint, he was on the bed but he cannot recall whether he was stood up, sitting or lying on the bed, however he does not recall him being on the floor at this time.

- 7.1.10 DCO Bessaoud recalled that during the restraint [D191] was fighting back and then when he was walked down to CSU he did not want to walk but the officers managed to escort him down in final locks. DCO Bessaoud does not recall [D191] sustaining an injury to his face. DCO Bessaoud was asked if he recalled DCM Webb advising [D191] that if he did not stop screaming he would feel more pain, he stated that he probably would say something like that, maybe that if [D191] did not comply he would feel more pressure through his wrist. DCO Bessaoud did not recall [D191] objecting about pain in his left hand whilst in the room, he may have said something about his hand en route to CSU, and he thinks that DCM Webb may have released the locks a bit.
- 7.1.11 DCO Bessaoud does not recall having any concerns regarding DCM Webb's restraint of [D191] in relation to the level of force used and he would not do anything differently with hindsight.
- 7.1.12 At interview [D356] recalled seeing [D191] with another detainee who was trying to calm him but [D191] was intoxicated with Spice; *'it was like he was possessed and he kept thinking that people were trying to kill him'*. [D356] recalled that he told [D191] to go back to his room; he then carried him back to his room and tried to put him to bed but got back out. Three officers arrived and tried to help.
- 7.1.13 [D356] recalled that [D191] then stood on the bed in the left side of the room, he was shouting, and [D356] recalled him saying [D191] and the officers were saying *'calm down, calm down'* and [D356] was telling [D191] *'relax, look [D191] I am your friend, relax'* and he moved in closer. It was then that [D191] struck [D191] with the remote control for the television with sufficient force to break the remote control.
- 7.1.14 One of the officers then got hold of [D191], they said *'that's not right, hitting others'*; they moved in to restrain [D191] before taking him away to E wing for the night. [D356] confirmed that he has seen several restraints during his time at Brook House IRC and whilst he does not recall exactly what the officers did, none of their actions caused him any concern. The officers had tried to calm [D191], that did not work and so they got hold of him. [D356] recalled that [D191] had a bruise on his eye when he saw him the following day; he does not know how he got that.
- 7.1.15 DCM Webb's Use of Force records note that he heard shouting, screaming and spitting sounds from the first floor, where he saw [D191] behaving strangely. DCM Webb and DCO Bessaoud approached [D191] and asked if he had taken anything. [D191] made his way back to his room and started to throw himself around the room and onto his bed and then the floor. Another detainee, [D356] was in the room and was trying to communicate with [D191]. When [D356] turned to leave the room, [D191] who had stood on his bed, shouted *'say [D191]'*

[D191] say [D191] and then moved forward and struck [D356] on his head with the remote control. DCM Webb recorded that he moved forward and took hold of [D191] to stop him striking [D356] again.

7.1.16 [D191] dropped his weight onto the bed and as DCO Bessaoud held his right arm, DCM Webb took the left arm and [D191] wrists were placed in the small of his back. DCM Webb instructed [D191] not to resist and to do what he was instructed. Due to [D191] having assaulted another detainee, DCM Webb wanted to move him off the wing as soon as possible. Officer Lainchbury, who had moved into the head support position, was instructed to walk in front and open the doors whilst DCM Webb and DCO Bessaoud walked [D191] off the wing, descending the stairs down to the Care and Separation Unit.

7.1.17 Conclusion

7.1.18 It is noted the within the Annexes of Deighton Pierce Glynn's letter of 12 September 2017, the incidents are purported to have occurred '*last year*', in 2016. In his statement dated 4 October 2017 [D191] recalled that the incident with 'Steve' occurred eight or nine months after his arrival in the centre, indicating a date of October or November 2016. [D191] recalled that following him shouting on the landing sometime between 10:00 and 11:00 hours and force being used on him in his room; he recalled a manager named Steve controlling his arm.

7.1.19 The only record of force being used on [D191] is on 27 April 2017 at 18:10 hours. It is recorded that following hearing [D191] shouting on the landing officers attended, including one called 'Steve', known to be DCM Steve Webb who ultimately was the left arm officer in the ensuing Use of Force which occurred in [D191] room. Without evidence of any other Use of Force, and with [D191] only recalling one such incident occurring, it would appear reasonable to the investigation that this is the incident referred to by [D191] despite the difference in the dates and times provided by [D191], which were vague.

7.1.20 It is accepted that force was used on [D191] during his time at Brook House IRC and that he was Removed from Association (RFA) under DCR Rule 40; this is supported by documents provided by the centre. These actions are considered below.

7.1.21 DCR Rule 41 states that force should not be used unnecessarily and no more force than is necessary should be used, it is accepted that an unprovoked attack, with officers '*jumping on*' [D191] in his room would not be considered reasonable or necessary. However, the documents provided to the investigation indicate that [D191] was restrained following his assault on another detainee.

7.1.2 Three officers were involved in the incident of 27 April 2017, all similarly record hearing [D191] shouting on the landing, following which he returned to his room. In the room [D191] was acting aggressively towards [D356] and ultimately he struck him on the head. Force was used because of [D191] actions against the detainee. All three officers record that they suspected that [D191] was under the influence of an illegal substance.

- 7.1.23 At interview [D356] evidence supported that of the officers that [D191] behaviour was erratic, he was jumping around in the room and he then struck [D356] [D356]. This action made it necessary for the officers to use force to control [D191] [D191]. The officer's actions did not seem out of place to [D356].
- 7.1.24 The CCTV recordings which recorded events outside [D191] room show that there was some activity on the landing prior to the incident which occurred in the room. [D191] was seen quickly exiting his room and then being held by another detainee, who appears to forcibly taken back into his room. This supports DCO Bessaoud's report which recorded that [D191] was shouting and screaming and trying to attack another detainee, and the account of [D356] who stated he grabbed [D191] and took him to his room and was struck on the head by the control.
- 7.1.25 CCTV recordings also show numerous other detainees present on the landing outside [D191] room and that other detainees, at times, entered and exited the room. This does not accord with [D191] assertion *'It is the norm that when officers want to hurt a detainee they ensure that other detainees are locked in their cells so that they don't witness the incidents'*.
- 7.1.26 CCTV recordings show DCM Webb arrived on the landing after [D191] had been taken back into his room by [D356]. This does not accord with [D191] assertion that three officers came to him screaming and that Steve screamed *'go back in your cell and be quiet'*. It is noted that this also does not accord with DCM Webb's UOF report but does accord with DCO Bessaoud's report.
- 7.1.27 CCTV recordings show DCM Webb and another officer guiding [D191] out of his room in a recognised escorting position with [D191] hands to his front waist. [D191] is seen, apparently resisting escort, in an upright position walking between the two officers. This does not accord with [D191] assertion that his arms were placed behind his back, that he was lifted up and that he was dragged to segregation. It is noteworthy from the CCTV footage that whilst DCM Webb appears to be wearing a body worn camera throughout the incident, Brook House IRC has confirmed that no footage is held, it is considered that deployment of the body cam would have ensured there was no ambiguity regarding the events which occurred in the room.
- 7.1.28 Despite the lack of audio, CCTV recordings do not support that three officers approached [D191] screaming and shouting. It is noted that [D191] uses the word *'cell'* within his witness statement whilst the DCO's use the word *'room'* in their reports. This does not necessarily accord with [D191] assertion that DCM Webb told [D191] to *'go back to your cell'*.
- 7.1.29 [D191] alleges that in his room he was pushed to the ground, his head was pushed into the floor and his face scraped on the ground whilst his arms were behind his back. The officers accounts were that [D191] was behaving strangely, he *'started to throw himself around the room onto his bed and then onto the floor'*, *'trying to attack other detainees'*, *'was very aggressive and still fighting'*, *'fell down on the floor, he then got up and jumped on the bed'*. Officer's evidence does not support [D191] was restrained on the floor nor that his head and face

contacted the floor. DCO Lainchbury's evidence records that he took a head control position initially during the use of force and DCO Bessaoud and DCM Webb recall restraint occurring on the bed.

- 7.1.30 Medical evidence from the F213 states [D191] apparently knocked his face on a table in the room and that swelling to his right eye was apparent but there were no open wounds. It is noted that the officers and [D356] all similarly record that [D191] was acting erratically in the room, notably DCO Bessaoud and [D356] stated that [D191] fell to floor in his room, before he then stood jumping on the bed, it is not considered unreasonable to find that [D191] may well have inflicted an injury upon himself during this time. It is noteworthy that Dr Chaudhary records seeing [D191] on E wing the following day and that he had a bruised eye it is recorded that [D191] 'injured himself with a remote control', it is reasonable to accept that these notes reflect [D191] account to the doctor and that it is different to his account within the statement. It is noted that there is no record of an injury to [D191] left arm.
- 7.1.31 The officers and [D356] himself all recalled that [D191] struck [D356], hitting him on the head with a television remote control; DCO Bessaoud recalled that it was 'with enough force to make a loud crack'. The evidence of the officers is supported entirely by [D356] who confirmed that it was only following this assault that force was used to restrain [D191]
- 7.1.32 The evidence indicates that attempts were made, by both the officers themselves and [D356] to verbally calm [D191] and de-escalate his aggressive and bizarre behaviour. Officers' evidence, also supported in part by CCTV recordings, indicates that the use of force on [D191] followed accepted prescribed routes to final locks in order to gain compliance. Such compliance was considered necessary and justified following [D191] displaying aggressive behaviour and assaulting another detainee by hitting them on the head with an object using some force. [D356], when asked did not raise any concerns about the restraint methods employed by the officers.
- 7.1.33 [D191] alleges DCM Webb 'warned that they would hurt me more if I didn't stop shouting'. DCM Webb recorded that he instructed [D191] not to resist and to do what he was instructed. DCO Bessaoud's evidence, and that of [D191] himself, supports that [D191] was warned that his behaviour would result in further pain if he did not comply. It is considered this is an approved and necessary requirement of pain compliance and in so doing DCM Webb complied with his training and procedures. It is accepted that the specific words used may have varied from those stated by [D191]
- 7.1.34 The initial letter stated that excessive force was used in restraint by Officer 'Steve' who caused such pain to [D191] hand that he thought it had been broken. The statement recorded that during the restraint 'I was in so much pain that it felt as if my shoulder was about to come out of place and my hands and fingers break'. It is noteworthy that there is no record that [D191] reported any injury or sought treatment relating to his arm, hand or shoulder to either the nurse who saw him on 27 April 2017, the doctor who saw him the following day, or indeed anywhere within the medical records. Whilst control and restraint of an individual

by its very nature involves the forceful positioning of the subject to gain compliance and is likely to involve a degree of discomfort, there is no indication that the discomfort continued or that any injury was sustained.

- 7.1.35 In his response to questions raised by PSU where [D191] was asked whether he reported his alleged wrist injury, he stated that he *'did not report the injuries as he thought it would make no difference, he said that he had no faith that complaining would help him and that there was no culture of detainees complaining about treatment'*. In response to this it is noteworthy that during his time in detention [D191] completed two complaint forms regarding matters which had aggrieved him one complaint is dated 21 December 2016 and the other was 28 March 2016 (believed to be 28 March 2017). Both complaints were dealt with locally and [D191] received responses, including a payment for money he alleged had gone missing.
- 7.1.36 It is considered that [D191] was fully aware of the complaint procedure prior to this incident yet chose not to raise this matter at the time, waiting instead for 17 months before requesting that the matter be reviewed. It is considered that if [D191] felt that he had been treated unfairly or unlawfully at the time it is not unreasonable to expect that he would have raised this matter then.
- 7.1.37 The officer's accounts record that appropriate techniques were used in order to restrain [D191]. CCTV footage indicated that DCM Webb was seen to be near the door of the room until 18:15:01 and he left room with [D191] in restraint at 18:16:46, this indicates that [D191] was restrained for a very brief period in his room. The CCTV footage supports that [D191] was escorted to CSU using an appropriate technique. With regard to the use of force as circumstances presented themselves to the officers at the time, it is considered that, on the balance of probability, the level of force used was necessary, reasonable and justified.
- 7.1.38 It is accepted that [D191] was Removed from Association following the incident on 27 April 2017, and consideration was given to the appropriateness of the use of DCR Rule 40. The investigation has concluded above that evidence supports that [D191] conducted himself in such a manner as to necessitate the use of force by DCOs to restrain him from further assaulting another detainee. It is accepted, therefore, that [D191] behaviour was contrary to DCR Rule 39(2) and (3): that a detained person shall not behave in a way which might endanger the health or personal safety of others, or in a way which is inconsistent with his responsibilities under the compact.
- 7.1.39 Evidence supports that other detainees became directly involved in the incident, and that it affected their behaviour and disrupted their activity, one was physically assaulted by [D191]. Rule 40(1) allows for the Removal from Association (RFA) of a detainee where it appears necessary in the interests of security or safety.
- 7.1.40 Rule 40(2) allows, in cases of urgency, for a contracted-out detention centre manager to authorise use of Rule 40 but, when so doing, requires the Secretary of State to be informed as soon as possible. Appropriateness of the use of Rule 40, therefore, hinges on the apparent necessity for the RFA of a detainee based on the interests of security or safety. As above, it is accepted that [D191] conduct

and actions were perceived by the DCO's involved as a threat to safety and wellbeing.

- 7.1.41 Where Rule 40 is invoked it is often, of necessity, a subjective decision based on circumstances pertaining at the time and how events are perceived by those affected. Consideration was therefore necessarily given to the decision to place [D191] into Rule 40 and the timings of that decision.
- 7.1.42 DCF-1 BH/189/17 records that the authority to place [D191] into Rule 40 was given by DCM Webb at 18:30 on 27 April 2017, the DCF-1 also records [D191] was located into Rule 40 at 18:30. It is accepted, therefore, that the decision to place [D191] into Rule 40 was immediate. This is considered to accord with officer's and CCTV evidence that DCM Webb was directly involved in the restraint and escort of [D191].
- 7.1.43 DCF-1 BH/189/17 records the reason for removing [D191] from association as *'for good order of the centre, assaulting another detainee with a television remote control'*. It is accepted that DCM Webb personally witnessed [D191] behaviour immediately before, during and following his assault on another detainee. CCTV evidence supports that [D191] actions caused disruption on the landing and affected the behaviour of other detainees. It is accepted that this conforms to the requirements under Rule 40(1) in that it appeared necessary in the interests of security or safety at the time.
- 7.1.44 It is therefore considered reasonable to accept the appropriateness of the use of Rule 40 as the circumstances and evidence presented themselves to DCM Webb at the time.
- 7.1.45 With regard to authority for the place [D191] on Rule 40. DCR Rule 40(2) allows that, in cases of urgency, centre managers can authorise removal from association without Home Office authority. In the circumstances that presented themselves to DCM Webb, and as he states in his use of force report, he immediately took the decision to remove [D191] from the wing as quickly as possible. This decision was directly based on [D191] assault of another detainee. It is considered that DCM Webb was justified in making this decision and therefore authorising the engagement of Rule 40 without reference to the Home Office.
- 7.1.46 Evidence, including his own, supports that [D191] used the psychoactive drug Spice whilst in Brook House. [D191] states he started using Spice around January or March 2017, although it is accepted that [D191]'s dates may not be reliable and it is noted that medical records state that as early as 28 October 2016 [D191] was thought to be under the influence of Spice. It is considered reasonable, therefore, to assume [D191] may have been under the influence of drugs as suspected by the three officers concerned in his restraint. It is further considered reasonable to assume that [D191] erratic and bizarre behaviour may have been due, if only in part, to the influence of drugs.
- 7.1.47 With regard to procedural compliance with the application of Rule 40, DCF1 BH/189/17 records that all relevant parties, including the Home Office, were

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informed of [D191] removal within two hours of the event with Healthcare being informed first. It is considered that this time scale fulfils the requirements of Rule 40(2), (5) and (8). The investigation considered why the first notification, that to Healthcare, did not occur until 19:45, one and a quarter hours after the removal. This is especially relevant considering that all officers involved held a belief that [D191] was under the influence of drugs.

- 7.1.48 It is noted, however, that the Removal from Association Initial Health Assessment form records the time of assessment as 18:20. This form also records that [D191] [D191] showed no signs of being acutely unwell, which specifically mentions withdrawal from drugs. In consideration of notifications, it is accepted that time delays occur in completing paperwork and that the more important physical health assessment was correctly undertaken.
- 7.1.49 With regard to the requirements of Rule 40(6), DCF1 BH/189/17 records that [D191] [D191] was given a copy of Documentation, by hand, at 19:45 on 27/4/17.
- 7.1.50 With regard to Rule 40(3), DCF1 BH/189/17 records that [D191] [D191] was removed from Rule 40 on 28/4/17 at 12:30, approximately 18 hours after being placed on Rule 40.
- 7.1.51 With regard to Rule 40(9), Record of Actions and Observations, Page 2 records Home Office, Healthcare, Safer Custody and Chaplaincy all visited [D191] [D191] on 28/4/17 between 10:30 and 11:30. Whilst Rule 40 (9) states, each day, it is accepted that a day consists of 24 hours and within that definition can be considered reasonable.
- 7.1.52 In consideration of the application of Rule 40, it is considered that sufficient evidence was found to support that policy and procedure were followed to an acceptable standard and the requirements of Rule 40 were followed in the Removal from Association of [D191] [D191].
- 7.1.53 In consideration of [D191] [D191] allegation. Whilst it is accepted that [D191] [D191] was restrained, may have experienced pain and was removed from association by DCM Webb, it is not considered that the actions of the officers, particularly those of DCM Webb were anything other than a proportionate response to [D191] [D191] own behaviour and actions. It is considered that officers acted in accordance with training, policy and procedure and that the use of Rules 40 and 41 were justified and proportionate. It is therefore considered that [D191] [D191] allegations of excessive force and inappropriate segregation are **unsubstantiated**.
- 7.2. Allegation 2: That sometime between January and March 2017, following being unconscious [D191] [D191] was segregated for two days and Brook House officers did not take him to Healthcare for treatment when he was unconscious.**
- 7.2.1 Review**
- 7.2.2 Within his witness statement [D191] [D191] referred to a second incident occurring between January and March 2017; he had smoked the drug Spice and passed

out. He recalled that when he came to he was being restrained and was moved to the segregation unit for two days. The centre has confirmed that on 28 October 2016 [D191] was taken to the CSU *'under the influence and returned to A-wing later that day, there was no C&R incident and no Rule 40'*.

- 7.2.3 [D191] Healthcare records show two references to [D191] being taken to E wing for observation following drug use. An entry which corresponds with the date of the incident recorded by the centre was input at 08:37 hours on 28 October 2016 by Healthcare Assistant McPhoy. It states *'Oscar 1 phoned to advise that detainee was in his room acting strangely. Healthcare attended and carried out observations. Detainee stated that he had smoked about 10-15 minutes before. Was observed to be having mini spasms. Taken to E wing for observation. Plan to be nursed on E wing'*.
- 7.2.4 A later entry at 11:50 hours notes that *'Detainee appears more stable when seen in E wing his morning, he lost his job in the kitchen for smoking Spice which he admitted'*. A final entry for the 28 October 2016 at 13:23 hours records *'Detainee was seen at CSU taking his lunch. He appears more stable and pleasant'*. All entries record the results of a medical examination including blood pressure and pulse.
- 7.2.5 The Detainee Transferable Document – History Sheet provided to the investigation records that on 28 October 2016 [D191] was within E wing, the comments record *'under the influence, was placed into CSU on Eden Wing'*. The following day [D191] location is recorded as being on Arun wing and that his fourth Care Officer Monthly review was completed. The review, apparently signed by [D191] records that he has no problems on the wing/centre and that he feels safe.
- 7.2.6 The second instance of [D191] being observed on E wing is recorded within the Healthcare records on 19 January 2017 at 04:42 & 04:46 hours. It is considered that the record was input retrospectively and that the incident occurred on 18 January at 20:00 hours. In an apparently similar situation it is recorded that Healthcare attended as First Response, [D191] admitted that he had taken illicit drugs with his roommate and was taken to E wing where he was later checked again by Healthcare staff at 22:00 hours and was taken back to his wing after observations were normal
- 7.2.7 **Conclusion**
- 7.2.8 It is noted that there is no documentary evidence provided to the investigation to support [D191] allegation that he was segregated for two days following a period of unconsciousness.
- 7.2.9 Whilst [D191] referred to only one occasion where he smoked Spice it is accepted from the medical records that there were two occasions, 28 October 2016 and 18 January 2017 where he was taken to E wing after admitting to drugs use. It is considered not unreasonable to consider that one of these occasions is the incident referred to by [D191] and both will be considered in line with the allegations raised in his complaint.

- 7.2.10 [D191] recalled regaining consciousness, before being restrained and was moved to the segregation unit for two days; however neither incident noted in the medical records note a lack of consciousness.
- 7.2.11 [D191] asserts that officers did not take him to Healthcare, which is technically correct, however [D191] medical records from 28 October 2016 note that there was an initial request by the Oscar 1 for Healthcare attendance in [D191] room prior to the move to E wing, a move which was apparently driven by Healthcare who recorded *'Plan to be nursed on E wing'*. Notably the medical records confirm that three physical medical examinations of [D191] took place on that day. Medical records do not record when [D191] was returned from E wing, however an extract from [D191] DAT record states *'28/10/2016 19:25 hours Arrived from CSU into A wing'*, indicating the time spent away from the wing was in the region of eleven hours.
- 7.2.12 The medical records of 18 January 2017 recall that Healthcare attended as a First Response and found that [D191] had vomited; he was taken to E wing. There is no indication or documentation to infer that force was used. Records show that physical observations were conducted and after the second observation at 22:00 hours [D191] was taken back to his wing, therefore after a period of around two hours.
- 7.2.13 Any removal to CSU for a period of two days would, in itself, necessitate the generation of some record within Brook House IRC. In order to be placed on the CSU for that period of time, Rule 40 or Rule 42 would, of necessity, have to be engaged. In either case the Home Office would have record of the event in addition to G4S. As no records were found of any such event regarding [D191] it is considered that, on the balance of probability, such an event did not take place.
- 7.2.14 By his own admission, [D191] had been smoking a psychoactive drug, which is an umbrella term used to cover a wide range of substances which affect the user's mental functioning or emotional state by stimulating or depressing the central nervous system. By their very nature such drugs may alter perception, inducing a distorted sense of sight, hearing and touch, changing the user's impressions of time and space and distorting reality.
(http://www.nhsaaa-beta.scot.nhs.uk/media/432195/what_are_nps.pdf)
- 7.2.15 It is considered reasonable to assume, therefore, that [D191] may have been suffering in part from any one, or a combination, of symptoms which could distort his perception and memory of events.
- 7.2.16 It is again noted that [D191], despite being aware of the complaints procedure, having made a complaint in December 2016 [D191] chose not to utilise the process in the period when he alleges this matter took place, between January and March 2017.
- 7.2.17 Based on the lack of any evidence to suggest otherwise it is considered reasonable to find, on the balance of probability, that [D191]'s allegation that he

was segregated for a period of two days and was not taken to Healthcare following a period of unconsciousness is **unsubstantiated**.

8. Wider considerations.

- 8.1 To consider whether there were any organisational deficiencies which may have contributed to [D191] treatment.
- 8.1.1 Consideration has been given to [D191] allegations of failings in the Healthcare regime in regard to his [Sensitive/Irrelevant]. Whilst not qualified to comment on medical diagnosis, treatment or procedure it was considered reasonable for the investigation to address [D191] complaint under Terms of Reference 2.2 in regard of any identifiable organisational deficiencies and consideration focussed attention on evidence from [D191] medical records detailing appointments and times.
- 8.1.2 Evidence, including [D191] own, supports [D191] has suffered from his [Sensitive/Irrelevant] for at least 10 years. Healthcare at Brook House IRC was aware of [D191] [D191]'s [Sensitive/Irrelevant] from his initial appointment on 13 February 2016. It is seen that between 13 February 2016 and 12 May 2017 [D191] was seen by a doctor at Brook House IRC for [Sensitive/Irrelevant] on at least ten occasions. Records show [D191] failed to attend four further doctors' appointments within the same period. [D191] was seen by other healthcare professionals on numerous other occasions during this time specifically about his [Sensitive/Irrelevant].
- 8.1.3 The medical records confirm that [D191] was given various treatments during his time at Brook House IRC for his [Sensitive/Irrelevant]. The records indicate that [D191] did not always follow advice and often stopped using the treatments after a few days. Evidence supports that several [Sensitive/Irrelevant] appointments were made for [D191] during this time. It can be seen from the documents provided to the investigation that [D191] was subject to usual waiting times as advised by a local hospital.
- 8.1.4 From the evidence available it is considered that the steps taken by Healthcare at Brook House were consistent with taking [D191] [Sensitive/Irrelevant] seriously. It is further considered that evidence was found to support [D191] was referred to specialist [Sensitive/Irrelevant] services after a period of two months when local medical treatments appeared not to cure his [Sensitive/Irrelevant]. With regard to times taken, it is accepted that the local hospital considered [D191] [Sensitive/Irrelevant] as non-urgent and, as such, subject to their standard waiting lists. It accepted that hospital waiting times are out of the control of the Healthcare department.
- 8.1.5 It is noted that [D191] had been suffering from his [Sensitive/Irrelevant] for ten years prior to arriving at Brook House IRC. It is not considered to be indicative that there was '*inadequate Healthcare treatment for* [Sensitive/Irrelevant] simply by the fact that Healthcare staff were unable to cure a long standing medical condition during [D191] [D191] time in Brook House IRC when it had not previously been resolved within ten years. It is considered that at face value, Healthcare took steps to treat [D191] [D191] and then referred him to a specialist dermatologist. It is considered to be open to [D191] to raise a complaint with NHS England should he wish to

complain about the actual treatment he received.

- 8.1.6 It is considered, on non-medical grounds, that Brook House Healthcare took sufficient action to attend to [D191] [Sensitive/Irrelevant] he was treated locally and then referred to a specialist.
- 8.1.7 In review of [D191] medical records however it was noted that several changes to the appointments times of his offsite medical appointments were made. It was noted that an appointment on 23 Jan 17 was rescheduled due to 'transport difficulties', however the records did not record a reason for the other rescheduled appointments on 9 December 2016, 13 February 2017, 20 February 2017, 3 April 2017 and Healthcare was asked to advise the reasons.
- 8.1.8 Whilst initially Healthcare stated they were unable to see the reasons for the rescheduling of the appointments a response was later received from the Healthcare Practice Manager who advised that he had collated the information from the diary. It was stated that the appointments on 9 December 2016 and 20 February 2017 were changed as [D191] was aware of the dates, and such appointments are rebooked for security reasons. On the other three occasions appointments were in place for other detainees and it was deemed that those appointments took medical priority over [D191] appointments. The Practice Manager advised that his understanding is that they are allowed two escorts per day, one in the morning and one in the afternoon.
- 8.1.9 It is accepted the ongoing treatment encountered some delays due to the rebooking of several appointments. This was due to the limited availability of transportation for offsite appointments which can be facilitated by the centre on a daily basis. It is apparent that there were other detainees whose appointments were deemed to be more medically pressing than [D191] and the investigation is unable to comment on this.
- 8.1.10 It is however noted that a specialist appointment initially scheduled for 9 December 2016 did not take place until 27 February 2017, having been delayed in part due to transportation issues. Another appointment on 3 April 2017 was also rescheduled for this reason. It is considered that such delays are not in the best interests of a detainee regardless of the severity of their medical issue. Transportation of detainees is arranged by Healthcare with G4S who have the responsibility for the movement of detainees for non casework related appointments, such as hospital appointments. It is considered that to be an organisational deficiency that [D191] appointments were rescheduled for this reason.

9. SUMMARY & RECOMMENDATIONS

9.1 Summary

- 9.1.1 The evidence available to the investigation did not support [D191] allegations that in October or November 2016 excessive force was used during a restraint by an officer called 'Steve' who caused pain to [D191] hand and that following the restraint [D191] was segregated for 24 hours. Nor did the evidence support his

allegation that sometime between January and March 2017, following being unconscious, [D191] was segregated for 2 days or that there was any failure in Brook House officers arranging medical care at such a time. As such [D191] allegations have been unsubstantiated.

- 9.1.2 Whilst none of the complaint allegations made by [D191] have been substantiated there were organisational deficiencies identified in the course of the investigation and are raised below as recommendations.
- 9.1.3 There were no specific areas of good practice that should be disseminated.
- 9.1.4 The investigation did not conclude that any member of Brook House IRC staff (past or present) had committed any disciplinary offences in relation to [D191] allegations.
- 9.1.5 With the exception of the Body Worn Camera Policy, all other local and national policies / guidelines had been complied with.

9.2 Recommendations

- 9.2.1 The following recommendations arose during the course of the investigation:

9.2.2 Recommendation 1: G4S– Policy and Procedure / Training

- 9.2.3 It was noted from the CCTV footage provided by the centre relating to [D191] control and restraint on 27 April 2017 that DCM Webb wore a body worn camera, the documentation provided to the investigation records that a body worn camera was not used and the centre confirmed that that there was no record of footage.

9.2.4 Action Point 1

- 9.2.5 All staff should be reminded of the G4S policy on BWCs and monitored to ensure that they are now wearing and utilising the BWCs as per the policy.

9.2.6 G4S & Healthcare liaison regarding rescheduled appointments - Procedure

- 9.2.7 The information relating to the rescheduling of [D191] appointments was initially confirmed as being unavailable and then later provided by the Healthcare Practice Manager who assisted the investigation by working through information within the office diary.
- 9.2.8 It is noted that whilst it could be ascertained from [D191] medical records that several appointments had been rescheduled there was not an easy accessible record to highlight the number of occasions and reasons for this. As a result a delay of almost three months appears to have gone unnoticed in this case.

9.2.9 Action Point 2

- 9.2.10 That more robust records of appointments being rescheduled due to transport reasons are kept by Healthcare and processes are put in place for liaison with

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G4S to provide occasional additional transportation to avoid excessive delays in offsite medical appointments.

List of Annexed documents

Deighton Pierce Glynn letter of 12 September 2017	Annex A1
Witness Statement of [D191] of 4 October 2017	Annex A2
G4S email of 7 December 2017	Annex B1
[D191] complaint of 21 December 2016 and response	Annex B2 & B3
[D191] complaint of 28 March 2016 and response	Annex B4 & B5
Evidence of Rule 41 - Use of Force Records	Annex C1
DCO S Bessaoud Interview of 16 February 2018	Annex C2
Detention Centre Rules 2001, Rule 39, Rule 40 and Rule 41	Annex D1
Care and Separation – DCF1, BH/189/17	Annex D2
Removal from Association Initial Health Assessment	Annex D3
[D191] medical records & correspondence	Annex E1
Summary of records relating to skin complaint	Annex E2
Interview of [D356] of 15 February 2018	Annex F1

Name: A Hindmarch	Name: A Lennon
Grade: HEO	Grade: SEO
Signed:	Signed:
Date: 6 March 2018	Date: 6 March 2018