

BROOK HOUSE INQUIRY

Third witness statement of Philip Riley

1. I provide this statement in response to a request under Rule 9 of the Inquiry Rules 2006 dated 26 April 2022.
2. I, Philip Riley, Director of Detention and Escorting Services, Immigration Enforcement, Home Office, 3rd Floor, Apollo House, 36 Wellesley Road, Croydon, Surrey, CR9 3RR will say as follows: -

Introduction

3. I am a Senior Civil Servant, currently employed by the Home Office. My experience and qualifications are as set out in my first statement. Insofar as the contents of this statement are within my own personal knowledge, they are true, otherwise they are true to the best of my knowledge, information and belief.
4. The Inquiry has formally requested the additional documents and further information I offered to provide the Inquiry during the course of my oral evidence on 4 April 2022 and which was being collated at the time the Inquiry's Rule 9 request was received on 26 April 2022.

The Release Rates for Detained Persons Subject to Each Type of Rule 35 Report

5. The Inquiry has asked me for the release rates for detained persons subject to each type of Rule 35 Report. Information obtained from internal management over the last 12 months (May 2021 – April 2022) indicates the following:

Outcome of Rule 35 Review	Rule 35 (1)	Rule 35 (2)	Rule 35 (3)	Total
Detention Maintained	7	3	614	624
Individual Released	7	4	416	427
Total	14	7	1030	1051
Percentage released	50%	57%	40%	41%

6. These rates are subject to change and have not been assured to the standard required for the Office for Statistics Regulations. Published Transparency data covering Rule 35 reports can be found via the www.gov.uk website under government publications and within the monthly data for Immigration Enforcement¹.

The Rule 35 Assessment Team

7. I have been asked to confirm the details of the training given to members of the Home Office's Rule 35 Team, now formally known as the Detained Medical Reports Team and previously known as the Independent Rule 35 Team ("**the Team**") and whether decisions taken by this team are binding on case owners.
8. The Team was established on 9 September 2019 following the acceptance of Recommendation 15 of Stephen Shaw's second review into the welfare of those that have been placed into immigration detention, which was published in 2018. It responds to Rule 35 and Rule 32 reports from any individual held in immigration detention for all detained casework commands. Since September 2021 its remit has expanded to include work to establish processes to provide greater oversight and assurance of Medico Legal Reports, and working with Detention and Escorting Services to undertake a review of the IS91RA Part C process.
9. The Team is part of the Detention Progression and Returns Command ("**DPRC**"). The DPRC sits within the National Returns Command, a cross command team which

¹ [Migration transparency data - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

provides services to all the detained casework commands within Borders and Enforcement.

10. When the Team was established they received guidance on the application of the Rule 35 Detention Services Order, the Detention Centre Rules and the Adults at Risk Policy (“**AAR Policy**”). The current training includes a specifically designed pack which covers Detention Services Order 09/2016 (Detention Centre Rule 35 and the Short-Term Holding Facility Rule 32) (HOM0332172), Rule 35 of the Detention Centre Rules 2001 and Rule 32 of the Short-term Holding Facility Rules 2018. Members of the Team also receive training in Adults at Risk in Immigration Detention Policy and Cross Command Detention Overview Training (HOM0332170).
11. The Team are not expected to have medical knowledge and are not provided with specialist mental health training but rely on information supplied by medical practitioners in IRCs and Residential Short Term Holding Facilities (“**RSTHFs**”) and assess this in line with the AAR Policy. The AAR Policy includes mental health conditions amongst its specified “indicators of risk”. It recognises that such conditions, depending on their nature and severity, may inhibit a person’s ability to cope within a detention environment and should be factored into any consideration of detention and the general management of the person’s experience through the immigration process.
12. The Team completes a written response to a Rule 35/32 report, addressing whether detention remains appropriate and proportionate.
13. Once the Team has completed their review of detention, there are two processes. If the Team considers that detention should be maintained, the decision is finalised and served on the individual and their legal representative. If the Team considers that the detainee should be released, the next steps differ, dependent on whether the person is a Foreign National Offender (“**FNO**”) or not. If they are not a FNO, then once the decision is made, this is served and release occurs. If they are a FNO, the case is referred to the Strategic Director, who considers and approves the release of FNOs as set out in ‘Detention General Instructions’². If the Strategic Director agrees with the Team’s

² [Detention General Instructions](#)

recommendation that the FNO should be released, a decision is served and the person's release is processed by the case owning team. If the Strategic Director disagrees, for example, due to the risk of harm posed to the public, then his reasons for disagreeing are conveyed to the Team, who revise their draft detention review and issue a decision to maintain detention.

14. Rule 35 Decisions are made independently of the case owning team who are primarily responsible for return. In line with our published guidance, any decision to release an FNO (but not an individual who is not an FNO) needs to be referred to the Strategic Director for authorisation given the potential risk to the public. The Strategic Director can therefore refuse to authorise the release of those that the Team consider could be released on the basis of vulnerability. Detention is reviewed regularly as set out in our published policy and should also be reviewed when there is a change of circumstances relevant to the reasons for ongoing detention. This can then lead to a different course of action following the Team responding to the initial notification.
15. In regards to serving the Rule 35 response, the appropriate Detention Engagement Team (“DET”) within the IRC serve this in person. If the doctor or healthcare professional feels that the response does not properly address their concerns, they can escalate this through the DET. If the detained individual has already been released before they receive the decision, the Team will serve a copy of the decision via posting it to the individual's legal representative or to the last known release address if not legally represented.
16. The Team's responses to Rule 35/32 responses are quality assured by the Immigration Enforcement Detained Vulnerabilities Assurance and Advice Team (“DVAAT”). DVAAT complete quality assurance checks on 20% of all responses to Rule 35/32 reports issued by the Team, on a weekly basis, and provide individual feedback and monthly statistics.

The Memorandum of Understanding for the Investigation of Cases Involving Detained Persons Subject to Removal Directions

17. The Inquiry has requested a copy of the MOU between the Metropolitan Police Service (MPS) and Mitie in respect of Heathrow IRC which I have provided with this statement (HOM0332167). This MOU was agreed in 2016. The MOU sets out the roles and responsibilities for the MPS and Mitie in dealing with any incidents which may require police assistance.
18. While the MOU was in development, the Home Office and Mitie agreed to allow police presence on Crown Property through an ‘open invite’ (subject to review by either party) to allow police to attend the Heathrow IRC and carry out specified crime prevention tasks in the interest of all parties (HOM0332168). The agreement recognised that the detention estate was facing a difficulty in managing the threat of ‘Spice’. There have been ongoing discussions between Mitie and the MPS relating to crime prevention at the IRC.

Further Documentation to Provide the Inquiry

19. In the course of giving oral evidence, at the request of Brian Altman QC, I also agreed to provide to the Inquiry with the following documents:

*The Revised Cabinet Office Play Book*³

20. A copy of this was provided to the Inquiry in an email from GLD at 17:12pm on 20 April 2022.

*The Action Plans in Response to 2016-2017 IMB Reports*⁴

21. The Inquiry has been provided with the 2017 Action Plan – annexed to my Second Witness Statement and discussed at paragraphs 5 – 7 (HOM0332051). To further assist the Inquiry, I have provided the 2015 and 2016 Actions Plans with this statement (HOM0332171, HOM0332169).

*Details on Whether Delegation was Sought Under Rule 65 During the Relevant Period*⁵

³ Phil Riley, 4 April 2022, P36

⁴ Phil Riley, 4 April 2022, P77-78

⁵ Phil Riley, 4 April 2022, P84-85

22. The Home Office has been unable to locate evidence that any such delegation was ever sought.

<u>Statement of Truth</u>	
<p>I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.</p> <p>I am content for this witness statement to form part of the evidence before the Brook House Inquiry and to be published on the Inquiry's website.</p>	
Name	Philip Riley
Signature	<div style="border: 1px dashed black; padding: 10px; text-align: center;">Signature</div>
Date	15 June 2022