

Brook House Inquiry Chair's Opening Statement

Issued 21 April 2020

My name is Kate Eves and I am Chair of the Brook House Inquiry.

Until very recently it was my intention to hold an opening hearing on 21 April 2020 in central London, at which I would make this statement and issue the formal call for evidence. The current situation in relation to COVID-19, and the resulting government advice, has led to my decision, taken with sincere regret, to make this initial statement via the Inquiry's website rather than in a public space. I especially regret not having the opportunity to meet with all interested parties face to face and would like to provide reassurance that it is my firm intention to hold the Inquiry's first public hearings as soon as is practicable. I will provide further details on the next steps for the Inquiry towards the end of this statement.

On 4 September 2017, the BBC aired a Panorama documentary entitled 'Britain's Immigration Secrets'. That program showed footage filmed covertly by an undercover reporter between April and August 2017 at Brook House Immigration Removal Centre. The programme showed a number of detainees at Brook House being subjected to wholly unacceptable physical and verbal mistreatment by staff members.

A number of investigations followed and, on 5 November 2019, the Home Secretary appointed me to conduct a statutory inquiry into the mistreatment at Brook House shown on the programme. The full terms of reference are available on the Inquiry website. Those terms of reference, in summary, are to establish the extent of the mistreatment at Brook House during the time that the footage was recorded, to identify who was responsible for that mistreatment, what caused or contributed to that mistreatment and, crucially, what changes might be needed to prevent a repeat of such events.

Brook House is an Immigration Removal Centre located close to Gatwick Airport. It opened in 2009 as a purpose-built centre for adult males with security standards equivalent to a Category B Prison. In April 2017 the maximum operating capacity was 448. Brook House has been operated by G4S for the Home Office since it opened. The centre has four main wings. There is also a Care & Separation Unit which is used for detainees who are being temporarily confined or separated from the rest of the detainee population. Healthcare services, which are outpatient only, are provided by NHS England and G4S Medical Services Limited. Mental Health care is provided by Sussex NHS Partnership. The Home Office Immigration Enforcement Department has an office located in Brook House, as in all Immigration Removal Centres.

Support services for Brook House detainees are provided by charities including Gatwick Detainee Welfare Group, the Samaritans, the Red Cross and Bail for Immigration Detainees, commonly referred to as BID.

Before I talk in more detail about how this Inquiry will be conducted, I want to speak for a few moments about the reasons why we are here. I want to explain why, I consider our remit to be of the utmost importance.

It is hard for many of us to understand how it feels to be held in detention. It is hard for us to imagine the experience of being separated from our family, our homes and communities. The effects can be profoundly humiliating and traumatic. If you have significant uncertainty about what is going to happen to you and your family, your vulnerability may be even greater. Language barriers can cause difficulties communicating with other detainees and staff and you may be experiencing significant mental health issues. You may not understand the legal processes that you are subject to and you may greatly fear the outcome of those proceedings.

I have spent my career working with men, women and children detained in a variety of situations and locations around the world. I have spoken to many hundreds of individuals over those years and I am acutely aware of the inherent vulnerability that goes hand in hand with the experience of detention. It is the reason that a multitude of internal and external safeguards are in place to monitor conditions and ensure the safe and decent detention of some of society's most vulnerable individuals.

The public expects the Home Office to provide a safe, decent and humane environment for anyone who it or its contractors hold in immigration detention. The treatment revealed in the Panorama documentary was shocking and has no place in a decent and humane immigration detention system. It is this Inquiry's role to

examine what took place at Brook House and how treatment of the nature experienced was able to happen. Specifically, this Inquiry will examine whether the treatment experienced in Brook House was contrary to Article 3 of the European Convention on Human Rights and therefore amounted to inhuman or degrading treatment or punishment.

Before I talk about the investigations into Brook House that have already taken place, I want to acknowledge the courage and resilience of the two former detainees who have become known as 'MA' and 'BB'. Their determination to establish the facts of what happened to them at Brook House- and how those events were allowed to happen- has been instrumental in this Inquiry being established. They deserve answers to those questions and this Inquiry will seek to provide them to the fullest degree possible.

A number of investigations into the events at Brook House have taken place. Sussex Police carried out a criminal investigation, following which a case was passed to the Crown Prosecution Service. On 7 November 2018, the Crown Prosecution Service informed one of the main complainants that no criminal charges would be brought.

On 21 November 2017, two months after the documentary was aired, Stephen Shaw CBE was asked by the Home Office to extend the scope of his follow up review on the Welfare in Detention of Vulnerable Persons (which had previously been commissioned), to include issues of staff culture, recruitment and training, the sufficiency of the complaints mechanisms, and the effectiveness of whistleblowing procedures.

That same month, Verita was commissioned by G4S to carry out an investigation into the issues raised by the Panorama programme. This investigation was conducted by Kate Lampard and Ed Marsden. Their report was published in redacted form in November 2018 and is commonly referred to as 'The Lampard Review'.

Also in November 2017, the Home Office Professional Standards Unit began an internal investigation, which reported in February 2018.

On 16 November 2017, G4S commissioned Moore Stephens LLP to conduct an independent audit of the billings made by G4S to the Home Office in respect of its Brook House contract. Moore Stephens' remit was to ensure that these billings were

in accordance with the contract and to review the profit made by G4S over the life of the contract. Moore Stephens produced a confidential report in May 2018.

The Home Affairs Select Committee was prompted by the Panorama allegations to inquire into immigration detention, with a particular focus on the management of vulnerable individuals. The Select Committee report was published on 21 March 2019. The Select Committee asked the Home Office to disclose a copy of the Moore Stephens report. The Home Office declined to do so, on the basis that the report belonged to G4S and was commercially confidential. Concerned by some of the evidence the finance and contractual issues at Brook House, the Home Affairs Select Committee requested that the National Audit Office carry out a further investigation. The NAO reported in July 2019.

Each of these reviews and investigations have provided important insights, and I will consider their findings when determining this Inquiry's own focus and priorities.

Stephen Shaw had already conducted an important review into the treatment of vulnerable adults in immigration detention in 2016. He had made some significant recommendations designed to ensure that vulnerable adults were better identified by the Home Office and that the adverse impact of detention on welfare was recognised and mitigated. By the time Panorama aired, the Home Office had already commissioned Stephen Shaw to carry out a further review into the extent to which the government had implemented his recommendations, a task that he described as 'marking the Home Office's homework'. The start of the new review, however, coincided with the airing of the Panorama programme. Stephen Shaw noted that the Panorama revelations had led him to realise that he needed to say much more about staffing and staff culture, and the impact they had on detainee welfare. Stephen Shaw's follow up report concentrated on how the Home Office had responded to the 2016 report and focussed particularly on the then new Adults at Risk policy and case-working issues. Staff culture was considered and the need to better train and support staff working in immigration detention was identified. However, there was no specific focus on Brook House.

The Lampard report was focussed on Brook House specifically and drew attention, amongst other things, to staff shortages, weaknesses in management arrangements and staff supervision, inadequacies in regime and ineffective whistleblowing procedures. However, G4S commissioned the review and precluded consideration of Home Office policies and procedures except where they impacted directly on the day-to-day running of Brook House.

The Home Affairs Select Committee ('HASC') report considered the impact of immigration detention more widely. Its recommendations focussed on the need for more judicial oversight and recommended an end to indefinite detention for immigration matters. The HASC took evidence specifically in relation to Brook House and made a referral to the National Audit Office.

The National Audit Office investigation, understandably in view of its remit, was quite narrowly focussed on the contract between the Home Office and G4S, and whether or not G4S had been making excessive profits from that contract. While the NAO concluded there was no evidence of profiteering, both it and the Home Office concluded there were inadequacies with that contract – notably, that mistreatment of detainees did not amount to a contractual failing.

In September 2018, the Home Office announced that it was commissioning the Prisons & Probation Ombudsman to carry out a special investigation into the events at Brook House. The Terms of Reference for that special investigation were agreed between the Home Office and the Ombudsman.

In March 2019 I was appointed by the Prisons & Probation Ombudsman to lead the special investigation on her behalf. The two complainants known as 'MA' and 'BB' brought a judicial review against the Secretary of State for the Home Department, arguing that a statutory inquiry was necessary to meet the requirements of an investigation compliant with Article 3 of the European Convention on Human Rights. In this JR, they were supported by the Equality & Human Rights Commission, which had taken an active interest in Brook House from the point at which Panorama had been first broadcast. A particular concern was that the Special Investigation did not have the capacity to compel witnesses and demand evidence, and that without these powers, the special investigation would not be able to be as robust as a statutory Inquiry would be.

That judicial review was successful. On 5 November 2019 the Secretary of State for the Home Department, under Section 15 of the Public Inquiries Act 2005, converted the Ombudsman's special investigation into a statutory inquiry. Following a statutory consultation process, it was confirmed that the Inquiry's Terms of Reference would be based upon those agreed for the special investigation.

Building upon the work carried out as part of the Ombudsman's investigation, the Inquiry team has had access to a large volume of documentation from Sussex Police in addition to information from the Crown Prosecution Service and the Home Office. The Inquiry has reviewed a number of G4S staff disciplinary investigations in addition

to obtaining a preliminary list of the names of the approximately 3,500 individuals detained at Brook House from 1 April to 30 August 2017 and lists of G4S, Healthcare and contractor staff working there in the same period.

I have been to Brook House and considered the findings of all of the above investigations, with the exception of the Moore Stephens report, which I have not seen and which may not be relevant to my Terms of Reference. I have also examined all reports alongside those relating to the material period produced by the Independent Monitoring Board and HM Chief Inspector of Prisons.

The Panorama documentary itself is available here on the Inquiry's website and I have requested all un-broadcast footage from the BBC, who have agreed to provide this. After careful consideration, I have taken the decision not to integrate the footage during this opening hearing to avoid the possibility of re-traumatising those who were mistreated. The footage will be reviewed as part of the Inquiry's evidential hearings in due course.

At the time of making this statement, I have so far I have designated two individuals as Core Participants to the Inquiry. Both are former detainees at Brook House, known as 'MA' and 'BB'. In addition, I have granted Core Participant status to the Home Office as a corporate Core Participant. Guidance on how to apply for Core Participant Status is available on the Inquiry website and I would ask any individuals or organisations with an interest in the Inquiry to review the application criteria provided and submit applications by 19 May 2020. Determinations on Core Participant status applications will be published on the Inquiry's website after the outcome has been communicated to the applicant. Applications received after 19 May will also be given consideration.

I want to take this opportunity to ask anyone who was detained in Brook House between 1 April and 30 August 2017 to contact the Inquiry. I very much want to hear about your experiences of being detained. I need to hear from people with first-hand experience of life inside Brook House at that time in order to understand as fully as possible the extent and nature of the mistreatment. If you witnessed mistreatment or suffered it yourself, please contact the Inquiry on our freephone number, our freepost address or via our website, which also provides links to support services. If you were detained at Brook House but had a different experience from what was shown in the Panorama documentary, I need to hear from you too. Key information is available in 17 languages in addition to English on the Inquiry website. If you need translation into a language that is not provided, please contact us so that we can help.

If you worked at Brook House during the material period, in any capacity, I also want to hear about your experiences. It is crucial that people who worked there provide the Inquiry with insight into your own views about life at Brook House. I know that those individuals may be anxious about coming forward and would like to offer reassurance to anyone in that position. Staff are protected by law against being treated unfairly or losing their job if they decide to report certain types of wrongdoing that they become aware of in the course of their employment. Concerns can be raised at any time, including about past, present or future incidents. It is a criminal offence for anyone to take action that harms any witness because of the evidence that that witness has given to a public inquiry. The law gives that protection to all witnesses, whether employees, former employees, detainees or anyone else.

In addition, I would urge anyone with relevant information about Brook House and the events that took place there between 1 April and 31 August 2017, to please contact the Inquiry via our website, by mail or on our freephone number. Community groups and NGOs who work with people in the immigration system can assist the Inquiry by sharing information about our scope and terms of reference: I need your assistance to ensure that people who may have been subjected to mistreatment have the opportunity to have their voices heard.

I now want to turn to speak in more detail about how the Inquiry will conduct its work. As an inherently inquisitorial process, an Inquiry cannot make determinations about civil or criminal liability or substitute the role of organisations' disciplinary processes. However, whilst not adversarial, it does not mean that I do not have the necessary tools available to me to robustly examine the facts. I have now written to a number of organisations under Rule 9 of the Inquiry Rules. Over the coming months, the Inquiry team will be reviewing the evidence we receive which will include documentary evidence and the un-broadcast Panorama footage from the BBC. In addition, my current intention is that we will then be taking witness statements from a significant number of individuals and, in subsequent public hearings, examining evidence relevant to those statements, and questioning those witnesses. I am currently considering approaching the Attorney General and the Home Secretary with respect to obtaining undertakings relating to the future use of evidence obtained during the course of the Inquiry. I will invite submissions from Core Participants in due course as to whether such undertakings should be sought.

A key task for the Inquiry is to establish the extent of mistreatment at Brook House, and whether any such mistreatment amounted to a breach of Article 3 of the Convention. The Panorama footage clearly indicates that individual detainees experienced harm and that the extent and severity of that harm appeared to vary from person to person. The Inquiry must assess the prevalence and the severity of

the abuse at Brook House during the material time and to examine who perpetrated it. I will therefore focus on establishing the following:

- 1) What evidence is there of mistreatment of detainees during the material time in the broadcast and un-broadcast Panorama footage of events at Brook House?
- 2) What evidence is there of mistreatment of detainees through the evidence of detainees, former detainees, direct witnesses, front-line staff and contemporaneous documentation produced during this period?

The Inquiry will also consider the question of how any of these abuses were able to take place and what could or should have safeguarded against them. I will then focus on the crucial question of how such events can be prevented from happening again. I will address the following questions:

- 1) To what extent did the policies, practices, staffing and management arrangements at Brook House cause or contribute to the identified mistreatment? Specifically:
 - a. Direct management and leadership at Brook House
 - b. Staff and management training, induction and support
 - c. Staffing levels
 - d. Prevalence of racist attitudes /behaviours and measures for addressing such attitudes/behaviours
 - e. Staff and management culture
 - f. The co-location of Time Served Foreign National Offenders (TSFNOs) and asylum seekers
 - g. The assessment of vulnerability (including the process referred to as 'Rule 35': this is Rule 35 of the statutory Detention Centre Rules 2001 which requires doctors working in immigration removal centres (IRCs) to report to the Home Office concerning any detainee about whom they have health-related concerns; and the Adults at Risk policy)
 - h. The extent and suitability of the specialist mental health provision
 - i. The use of control and restraint techniques, including pain compliance
 - j. The availability of other methods for encouraging good order and discipline and dealing with non-compliance
 - k. The control of drug availability and use
 - l. Response to bullying or intimidation of detainees
 - m. The use of segregation
 - n. Management of self-harm and food refusal
 - o. Language barriers and the use of interpreters
 - p. Management of healthcare staff

2) The adequacy of the safeguards designed to detect mistreatment.

Specifically:

- a. Procedures for detainees to make complaints and the response to any such complaints
- b. The recording and monitoring of use of force
- c. Home Office monitoring and oversight of Brook House, including the role of PSU
- d. Adequacy of the contractual framework for identifying and responding to mistreatment
- e. IMB monitoring of Brook House
- f. HMCIP Inspection of Brook House
- g. Information mechanisms for raising concerns, including the role of the Chaplaincy
- h. Whistleblowing procedures and protections for staff

3) What changes have been made in response to the Panorama documentary?

4) Are those changes adequate?

A number of these questions are likely to require the input of people with expert knowledge and experience. I am in the process of identifying the right individuals to engage in that work and the names of those individuals will be announced in due course. With regard to adequacy of the healthcare provision at Brook House, I am considering the options available to me to assess that medical care, including the potential use of assessors or expert witnesses.

I will turn now to the Inquiry team, who I regret that I cannot yet introduce in person. I have appointed Counsel to Inquiry, Ms Cathryn McGahey QC, and Solicitor to the Inquiry, Mr Ellis Pinnell. Ms Saoirse Townsend and Ms Jo Moore have been appointed as junior counsel.

My current plan is for the Inquiry team and I, over the coming weeks and months, to assimilate and analyse documentary evidence, and to do the necessary preparation for the taking of witness statements. It is clearly desirable that witness statements should be taken during the course of face-to-face meetings. That is particularly important when a witness needs an interpreter or legal advice. At the moment, my intention is to delay any requests for witness statements until COVID-19 restrictions have been lifted sufficiently for such meetings to take place. Of course, if it appears that the restrictions are going to remain in place for many months, then this plan may have to be revisited.

While witness statements are being taken, the dates and timetable of public hearings will be determined. Again, those arrangements will inevitably be subject to the COVID-19 situation and to the restrictions, if any, that remain in place when these decisions have to be made. It is my firm intention to hold open, public hearings if at all possible. If it is obvious that the restrictions are going to continue in the long term, then I may have to consider remote hearings. Such hearings have obvious disadvantages and, only a few weeks ago, would have been considered unthinkable. But we are now in unprecedented times. Whatever format is adopted, I will do everything I can to ensure that Core Participants can participate to the greatest possible extent, and that public access to the Inquiry's work is maintained as well as it can be.

In the meantime, please contact us via the Inquiry's website, our freephone number or FREEPOST address. Currently, due to the impact of COVID-19, there is likely to be a delay in the Inquiry team receiving mail. In addition, all calls using the freephone number are currently being directed to voicemail. My team will strive to respond to any queries as promptly as possible and are very grateful for your patience.

Thank you.