

**Chair's Speaking Note: Preliminary Hearing 25<sup>th</sup> September 2020, 2pm**

Good afternoon. I would like to start this preliminary hearing by welcoming all those in attendance via the virtual link and also any members of the public observing these proceedings via the Inquiry's livestream.

I would also particularly like to formally welcome all Core Participants, a number of whom I am aware are attending today, and their legal representatives. I regret that the current public health situation has led to this hearing being conducted virtually but am very grateful to those who are assisting behind the scenes to facilitate this, including the Inquiry's Secretary, Gemma Ludgate, and her team.

All of those actively participating in this hearing will have received technical and housekeeping instructions from Ellis Pinnell, Solicitor to the Inquiry, and I would like to remind you to please follow the guidance included in those instructions to ensure the smooth running of this hearing.

The agenda for this preliminary hearing, which has been circulated in advance to Core Participants and is available on the Inquiry's website, is limited to five items. Firstly, Counsel to the Inquiry, Ms Cathryn McGahey Queen's Counsel, will provide an update on the Inquiry's progress to date. She will also outline the Inquiry's current proposals in respect of expert evidence. I will then hear submissions on whether the Inquiry should seek undertakings from the Home Secretary and/or Attorney General and, if so, on the terms of those undertakings. Fourthly, Counsel to the Inquiry will

address the Inquiry's timetable. Lastly, I will hear submissions from those parties who have applied for Core Participant status but for whom my provisional decision has been not to grant that status. Written submissions on that matter were requested by 11 September 2020 and four such submissions were received. When we reach that agenda item, I will ask counsel for **Bail for Immigration Detainees** to make any additional oral submissions on this matter, and will then hear submissions on behalf of **Detention Action** and **Inquest**. All three of these applicants are represented by the same team of counsel and solicitors. I will then hear submissions from counsel for **Medical Justice**.

Before I hand over to Ms McGahey to provide an update on many of the specifics, I would like to take the opportunity to speak for a few moments about my approach to the Inquiry's task. As Core Participants know, I delivered my opening statement on 21 April. The timing of this, a few weeks after the national COVID-19 restrictions were introduced, resulted in that statement being delivered remotely and broadcast on the Inquiry's website. Despite the challenges that the last six months have brought to us all, I have been determined that the Inquiry adapts as best it can to new ways of working and progresses with as much pace as is possible. It is, however, important to acknowledge that the COVID-19 crisis has had an impact on our timetable. The pandemic led to a significant period of time where the Inquiry team lost access to our dedicated office and hearing space.

Crucially, it has also led to real challenges in gathering vital evidence. I am aware that a number of document providers have faced unavoidable delays in collating and

submitting evidence that has been requested of them and I am sympathetic to the challenges that they have faced.

As Ms McGahey will touch upon, these COVID-19- related delays are not the only ones that we have faced. I am very aware that Core Participants are extremely keen for the Inquiry's work to progress. I would like to offer my reassurance that I understand their concerns and am fully committed to carrying out this Inquiry with all due pace, while ensuring that it is thorough and rigorous in its approach.

In my opening statement of 21 April, I summarised the issues that the Inquiry will address. My statement is available on the Inquiry's website and, as such, I do not intend to revisit that list in detail as part of this hearing. However, I do think it will be helpful to briefly summarise the five main areas that the Inquiry will focus upon.

Firstly, it will seek to understand the extent of mistreatment of detainees at Brook House between April and August 2017; secondly, the Inquiry will investigate the extent to which policies, practices, staffing and management arrangements at Brook House caused or contributed to that identified mistreatment; thirdly, the Inquiry will examine the adequacy of the safeguards designed to detect mistreatment; fourthly, I will examine what changes have been made in response to the Panorama documentary and, finally, I will look at whether those changes are adequate to prevent future mistreatment of the same nature.

In addition, I consider it important that the Inquiry examines whether some detainees at Brook House in the relevant period were in need of medical care that

they did not receive. Specifically, the Inquiry will consider whether unmet mental health needs contributed to detainees' ability to cope and comply with the regime at Brook House. I will examine the operation of Rules 34 and 35 of the Detention Centre Rules 2001, which include the framework to be used to assess a detainee's fitness for detention where there are concerns about their mental health.

I will also consider the degree to which mental health issues may have led to detainees behaving in a way which staff may have interpreted as deliberately disruptive. I intend to commission expert input to assist me in answering this question.

A number of Core Participants have made written submissions concerning the correct interpretation of the Terms of Reference and on the scope of the Inquiry. I am keen to hear submissions from other Core Participants on this issue, including those who may be granted that status following this hearing. I intend therefore to hold a further preliminary hearing in November, details of which Ms McGahey will provide, at which those submissions can be considered. I will not hear oral submissions on the Terms of Reference or scope today.

I do, however, at this stage think that it may be helpful if I make a few points to indicate the issues and areas on which I intend to concentrate.

Other investigations have taken place into the events at Brook House in 2017. This Inquiry must build upon and add to the findings of those previous inquiries. It is my view that this Inquiry's role is fundamentally to address the questions of 'what was

happening in Brook House between April and August 2017?’ and, crucially, ‘how can such events be prevented?’.

I have been urged to consider matters that go beyond those relating solely to Brook House. As part of my work, I will examine policies and procedures in place at Brook House, including those of the Home Office, G4S Care and Justice and the healthcare providers. Some or all of those policies and procedures were almost certainly applied nationally or, at the very least, in one or more other institutions. Therefore, any findings that I make in respect of these policies and procedures may have implications that go beyond Brook House.

I will examine the culture and environment in which mistreatment apparently went undetected. That examination may require me to make comparisons with the management of other institutions.

One of my key tasks is to make recommendations for the future. As everyone here is aware, G4S no longer runs Brook House or any other Immigration Removal Centre. I will not therefore have the opportunity to look at its current practice in that regard. It will, however, be important to consider the current practice, policies and procedures which operate in IRCs now. This will be crucial to ensure that any recommendations that I make have relevance and are sufficient to minimise the risk of a recurrence of mistreatment such as that shown on *Panorama*. If they are not, I will make recommendations for change.

It is therefore right to say that my task will not be confined to consideration solely of events at Brook House. However, I should emphasise that the Inquiry's starting point and principal focus will be the treatment – and mistreatment – of detainees once they had arrived at Brook House. This may involve consideration of whether some detainees, as a result of their physical or mental health needs, should have remained at Brook House at all, or should have received medical care that they did not receive. In particular, as I have said, the Inquiry will look at the operation of Rules 34 and 35 of the Detention Centre Rules 2001; but it is not within this Inquiry's terms of reference to consider immigration detention policy more widely or to have specific regard to any individual's immigration or asylum status.

This will be a thorough inquiry. But it must also be manageable and conducted within a reasonable time. There would be no point in an inquiry that investigated every possible aspect of individuals' detention but took so long that many other detainees suffered while it carried out its work, or in an inquiry that made recommendations that were hopelessly out of date by the time that they were published. This Inquiry has to be pragmatic, and must concentrate on its terms of reference, and must focus on making recommendations that will be of practical use in protecting those held in immigration detention.

I will listen with an open mind to further submissions on the scope of this Inquiry, but thought that it would be helpful to Core Participants if I set out my current thinking.

That concludes my introductory comments. Ms. McGahey, I will now turn to you and ask that you please provide an update on the Inquiry's progress.

**Kate Eves**

**25 September 2020**