



Kate Eves  
Chair  
Brook House Inquiry  
IDRC  
70 Fleet Street  
London EC4Y 1EU

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Dear Kate,

## **BROOK HOUSE INQUIRY**

Thank you for your letter of 26 May responding to mine of 21 May which suggested wording for the proposed immigration undertaking in respect of Inquiry participants who are current or former detainees.

I believe you may have misunderstood the Home Secretary's intentions in respect of the proposed exceptions to the undertaking. As noted in my previous letters, it is of utmost importance the Inquiry has access to all relevant material and that participants are able to speak freely. I hope you would also agree it is important that we are all clear about how the undertaking is intended to operate, including so we can issue the appropriate instructions to Home Office staff.

Our specific concern is to ensure that where evidence not previously known to the Home Office is used voluntarily by the participant in later immigration proceedings, the fact that evidence was also given to the Inquiry should not preclude the Home Secretary from acting on it in the usual way (i.e. in a way that might amount to more than just correcting the record). That was the aim of the wording proposed in my letter of 21 May.

I am grateful to your team for explaining to my officials the thinking behind your proposed exceptions. Following that, I understand your intention is that limb (i) covers the scenario in which a participant presents evidence in immigration proceedings that may conflict with evidence they gave to the Inquiry. In those circumstances, the Home Secretary can use the evidence presented to the Inquiry to set the record straight, provided the two tests in limb (i) are met: that the participant has chosen to rely on their Inquiry evidence; and that it is necessary for the Home Secretary to use Inquiry evidence to correct a false impression or assertion thereby made.

In addition to that, I understand the intention of limb (ii) is that the Home Secretary would be able to use evidence of a similar nature to the evidence given to the Inquiry, provided it has been obtained from a different source. As noted above, we want to ensure that where

information is introduced to their immigration proceedings by an Inquiry participant, the Home Secretary is not prevented from acting on it. I understand that in these circumstances, the information would fall outside the scope of the undertaking, as it would no longer be solely Inquiry evidence.

If your proposed exceptions are intended to operate as above, then we would be content to adopt your proposal for the terms of the immigration undertaking. The terms of the undertaking would be as follows:

*An undertaking in respect of any current or former immigration detainee who provides evidence to the Inquiry relating to a matter within its terms of reference, including oral evidence, any written statement made for the purposes of the Inquiry, and any document, information or thing made preparatory to giving evidence or otherwise created for the purposes of the Inquiry.*

*1. No evidence provided to the Inquiry by such a person may be used against that person by the Secretary of State for the Home Department:*

- a) in the course of any immigration proceedings within the jurisdiction;*
- b) in any immigration decision made by the Secretary of State for the Home Department;*
- c) in any decision to detain or to seek to impose conditions in respect of immigration bail;*
- d) for the purpose of investigating any immigration matter or deciding whether to bring immigration proceedings.*

*Save that:*

- (i) the Secretary of State may use such evidence where that person has themselves chosen to rely on such evidence and it is necessary for the Secretary of State to correct a false impression or assertion thereby made; and*
- (ii) the Secretary of State may use in immigration proceedings, including those listed in (a) to (d) above, evidence of a similar nature to that provided to the Inquiry by a current or former detainee, where the evidence on which the Secretary of State relies was obtained from a different source.*

I trust this is acceptable and will enable the Inquiry to make swift progress towards its hearings in November.



**Chris Philp MP**  
**Minister for Immigration Compliance and Justice**