THE BROOK HOUSE INQUIRY

BRIEFING ON KEY ISSUES

December 2022

Medical Justice
seeking basic rights for detainees

Medical Justice

Medical Justice is the only charity in the UK to send independent volunteer clinicians in to all the Immigration Removal Centres across the UK. The doctors document scars of torture and challenge instances of medical mistreatment. We receive around 600 referrals from people in detention each year and have gathered a sizeable, unique and growing medical evidence base. We help them access competent lawyers who properly harness the strength of the medical evidence we generate. Evidence from our casework is the platform for our research into systemic failures in healthcare provision, the harm caused by these shortcomings, as well as the toxic effect of immigration detention itself on the health of people in detention. Evidence from our casework guides our research, policy work and strategic litigation to secure lasting change. Medical Justice believes the only way to eradicate endemic healthcare failures in immigration detention is to close all IRCs, a stance supported by the British Medical Association, amongst others.

About this briefing

The following briefing is a summary of the key concerns and issues underpinning, and arising from, the Brook House Inquiry, which Medical Justice has identified from the evidence adduced at the public hearings. This document is prepared for reference only and is by no means exhaustive of the range of evidence or serious concerns explored during the Inquiry. Any position reflected herein is that of the charity Medical Justice and its focus in assisting vulnerable persons in immigration detention. It is provided now and in advance of the Inquiry report because significant change to immigration and asylum policy relating to the use of detention is being implemented now and without any regard to the overwhelming evidence of ongoing systemic failure in detention safeguards - a key contributory factor in the mistreatment and serious harm to the health and welfare of those detained documented by the Inquiry experts and across the whole range of witnesses who gave evidence to the Inquiry.

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EXECUTIVE SUMMARY

The Brook House Inquiry[1] (BHI) was set up by the Home Secretary in November 2019 to investigate the shocking mistreatment of detained individuals at Brook House immigration removal centre (IRC), shown in the BBC Panorama programme '*Undercover: Britain's Immigration Secrets*'[2] on 4 September 2017. The Home Secretary was compelled to set up the Inquiry due to legal proceedings[3] brought by former detained persons subject to mistreatment which was broadcast in the programme. Panorama revealed widespread abuse, both verbal and physical, of detained persons including undercover footage of a vulnerable detained person being choked, with a threat to kill him, demeaned and threatened by other officers with further violence after a suicide attempt.

The Inquiry eventually held public hearings over 46 days in two phases, 23 November 2021 to 10 December 2021, and 21 February 2022 to 6 April 2022. Central to the Inquiry's Terms of Reference was the extent to which any Home Office policies or practices, or clinical care issues within detention, caused or contributed to any identified mistreatment. Whilst the temporal scope of the Inquiry was limited to the period from 1 April to 31 August 2017, in order to fulfil its task to make meaningful recommendations, it also looked at current institutional practices and culture at the IRC, within G4S and the Home Office up to the present day. The Inquiry has indicated that it hopes to publish its report in the early part of 2023.

A number of formerly detained persons were designated core participants (CP) in the Inquiry. Medical Justice was also appointed by the Inquiry as a CP due to its extensive first-hand experience of the practices concerning detention and safeguarding of those with vulnerability, as well as its understanding of the adequacy of the healthcare provision at the IRC.

The BHI is the first public inquiry into the mistreatment of those detained under immigration powers, and the conditions of that detention. This is despite long-standing documented concerns about such detention, and evidence of abuse and racism in various IRCs going back more than two decades. It was therefore a unique opportunity for public scrutiny of, and accountability for, detention practices and culture.

Over the 46 days of hearings the Inquiry heard evidence from detained persons, detention officers, healthcare providers, G4S (the private contractor responsible for Brook House at the time) employees, Home Office officials, members of the Independent Monitoring Board and HM Inspectorate of Prisons. The Inquiry also appointed and heard from three experts to address the key issues of use of force; institutional culture; and clinical care provision and safeguards. It also examined a vast amount of

[1] https://brookhouseinquiry.org.uk/

[2] "Undercover: Britain's Immigration Secrets", BBC, 17 March 2020

[3] *MA & Anor v The Secretary of State for the Home Department [2019] EWHC 1523 (Admin)*

documentary material and video footage (both un-broadcast BBC footage, and material provided by G4S from CCTV and body worn cameras).

The evidence that emerged confirmed the longstanding serious concerns of organisations working with detained people, but also exposed even more shocking practices than had previously been known or understood and which were still continuing. This is all the more alarming in light of the intention to increase detention capacity by 1,000 spaces in 2023, along with the expansion into new forms of quasi-detention in military barracks and other facilities, and in the current deeply hostile political climate. It seems clear that the use of immigration detention is going to continue rising in circumstances where vulnerable persons continue to be wrongly detained and in ever increasing numbers pursuant to polices targeting asylum seekers such as the controversial Rwanda policy[4], the inhumane Manston Short-Term Holding Facility[5], and the reintroduction of the discredited[6] detained fast track appeals process[7].

The evidence received by the Inquiry showed:

- G4S employees and detention officers said that there was Home Office pressure to prioritise removal of detained persons over welfare.

  One officer, when asked why a removal was proceeded with when there was concern that the person had swallowed razor blades said *""It was an escorted removal so we were obliged to present him. If he had swallowed a blade it would not have presented a huge problem. They pass straight through the body"*. The Independent Monitoring Board (IMB) raised concerns that again in 2020 the prioritisation of removal and use of charter flights created an inhumane environment for all those detained in Brook House[8].

- Brook House was built, operated and felt like a prison, even though those held there had either not committed any crimes or had served their sentences.

  This contributed to officers becoming densensitised to the suffering of detained persons, and the normalising of abusive and insulting behaviour and language to them. The evidence showed numerous incidents of officers' indifferent or punitive response to finding detained individuals in mental crisis or self-harming. The Inquiry also heard of repeated instances of the most appalling racist language and attitudes expressed by officers, to and about detained persons, as well as graphic threats of violence.

[4] See for example UNHCR (2022) *UNHCR Analysis of the Legality and Appropriateness of the Transfer of Asylum-Seekers under the UK-Rwanda arrangement*

[5] The Home Affairs Select Committee visited Manston Short-Term Holding Facility on 8 November 2022. The Chair of the Committee Dame Diana Johnson MP issued a statement afterwards indicating that the crisis at the facility was not over and there were ongoing questions about the legality of decisions to detain people at the site for longer than 24 hours: Home Affairs Committee, "Statement from Home Affairs Committee Chair following visit to Manston", *UK Parliament*, 9 November 2022

[6] *The Lord Chancellor v Detention Action [2015] EWCA Civ 840* ruled the Fast Track system to be structurally unfair, unjust and ultra-vires

[7] Nationality and Borders Act 2022 s27

[8] On 2 October 2020 the IMB raised concerns with the Immigration Minister under Rule 61(3) and (5) of the DC 2001 based on evidence that "a series of issues are collectively and cumulatively having an unnecessary, severe and continuing impact on detainees, particularly those facing removal on charter flights, as well as across the detainee population as a whole… the cumulative effect of these concerns amounts to inhumane treatment". See M. Molyneux and L. Lockhart-Mummery, *Letter to Chris Philp MP, Minister for Immigration Compliance and the Courts, Home Office*, 2 October 2020. At the time Ms Molyneux was Chair of Brook House IMB and Ms Lockhart-Mummery was Chair of the IMB Charter Flight Monitoring Team. See also IMB (2021) *Annual Report of the Independent Monitoring Board at Brook House IRC for reporting year 1 January 2020 – 31 December 2020*

- **There was evidence, even in the limited period examined by the Inquiry, of excessive and disproportionate use of force, which was routine and normalised including in the context of removals, the use of segregation and the "management" of mental distress and self-harm.**

  Inappropriate use of restraint and force on detained persons suffering from mental illness was common. Use of force was not properly monitored or reviewed, and officers on occasion conspired in failing to record it (most egregiously in the choking incident referred to above). Healthcare staff were unaware of their responsibilities to monitor the welfare of detained persons during use of restraint. Use of force against naked detained persons was "*unusually high*" according to the Inquiry expert, and again showed prioritisation of removal over welfare, and was a direct consequence of the unlawful no notice removal window policy[9].

- **There was systemic failure by the healthcare provider to properly operate the clinical safeguards designed to protect vulnerable detained persons from unlawful and harmful detention.**

  These safeguards were approved by Parliament and set out in a statutory instrument: the Detention Centre Rules 2001[10]. The Inquiry's clinical expert described this system as "*dysfunctional*". This led to the wrongful detention of vulnerable persons in conditions which adversely affected their physical and/or mental health. Healthcare staff had not been adequately trained on how to identify or assess symptoms of trauma, nor did they have the means to provide treatment for it. This was highly alarming given that it is the accepted clinical view that detention itself is inimical to the treatment of mental disorder, particularly for those with trauma related mental illness. Alarmingly, senior healthcare staff in some instances thought it was their role to approve the use of force. At the end of the hearings the Home Office was compelled to write to all IRC healthcare departments to explain their basic legal duties and functions in implementing the key safeguards of the Detention Centre Rules 2001.

- **The Home Office, despite having been aware of repeated scandals over the abuse and mistreatment of those detained in IRCs[11], and having been the subject of repeated criticism by the Courts (including findings of mistreatment serious enough to breach the prohibition on inhuman and degrading treatment in Article 3 of the ECHR) and parliamentary committees[12], sought to offload and minimise its responsibility.**

  It pointed to front line staff as responsible and as "*bad apples*", despite evidence of serious failings by its contractor G4S at all levels of the organisation. It also showed itself unwilling to accept its own responsibility: to learn the lessons of how its detention policies, practices and

[9] In 2020 the Court of Appeal found that the Home Office's approach of only giving notice of a 'window' of timing for a potential removal of an individual interfered with the right of access to justice. This case was brought by Medical Justice and a detained person, in a claim supported by the Equality and Human Rights Commission. *FB (Afghanistan) & Anor, R (On the Application Of) v The Secretary of State for the Home Department [2020] EWCA Civ 1338*

[10] For example Rule 35 of the Detention Centre Rules 2001 sets out an obligation for GPs working in IRCs to provide information to the Home Office if a person's health may be "injuriously affected" by detention, if they suspect the person may have suicidal intentions, or if they are concerned the person may have a history of torture.

[11] Stephen Shaw, the respected former Prison and Probation Ombudsman, conducted three previous investigations into racism and mistreatment of those detained under immigration powers: in 2004, 2005 and in respect of the death of Jimmy Mubenga in 2014. Mr Shaw has also undertaken two independent reviews into the Welfare of Vulnerable Adults in immigration detention in 2016 and 2018.

[12] Joint Committee on Human Rights (2019) *Immigration Detention: Sixteenth Report of Session 2017-19*; Home Affairs Committee (2019) *Fourteenth Report of Session 2017-19*

institutional culture of indifference and hostility had resulted in the systemic failure of safeguards and the existence of a corrupted culture of impunity, dehumanization and racism.

The evidence received by the Inquiry makes clear, in the view of Medical Justice, that the Home Office is not capable of providing a humane system of immigration detention which respects fundamental rights and is consistent with the health, safety and dignity of those held within it. Troublingly, the recent events at Manston Short-Term Holding Facility provide further stark evidence of this lack of respect and inhumanity. Rather than expanding the use of detention, it should be reduced and phased out.

If administrative detention is to continue at all, its use should be truly an exception rather than routine, and subject to strict statutory criteria and a time limit. This view was widely expressed across all parties giving evidence to the Inquiry[13]. Like HM Chief Inspector of Prisons (HMIP), Medical Justice agrees that Brook House – and other prison-like facilities – should never have been used to detain people for administrative purposes. Such places certainly should not now continue to be used to hold persons detained under immigration powers.

[13] See Annex I to Duncan Lewis Closing Submissions - Witness comments on indefinite detention, DL0000260

BRIEFING: KEY ISSUES

This briefing focuses on the central factors identified as causing or contributing to the mistreatment and abuse at Brook House Immigration Removal Centre (IRC) first exposed by the Panorama undercover documentary *Undercover: Britain's Immigration Secrets'*[14] broadcast on 4th September 2017.

The factors discussed are:

- The difference between the nature of administrative detention and prison
- Home Office immigration policy
- Prisonisation / criminalisation, institutional culture of dehumanisation and racism
- Misuse of force and segregation
- Systemic defects in detention and clinical safeguards
- Lack of accountability, oversight and institutional culture of impunity

1. The difference between the nature of administrative detention and prison

1.1 It was recognised to be of importance to the Inquiry's investigation to understand and place the evidence of mistreatment and abuse at Brook House in the context of the unique nature of immigration detention. Many witnesses emphasised that unlike in prison, where those who are detained are held on remand or pursuant to a criminal sentence, those in administrative detention are held without any statutory time limit or express safeguards. The executive power to administratively detain people for indeterminate periods without charge, or trial, is well recognised as an extraordinary draconian power[15].

1.2 Those detained under immigration powers were also recognised to have distinct and complex needs, with far higher levels of mental illness and vulnerability compared to the prison estate. This reflects the background of past experience of trauma, torture, other serious mistreatment, conflict and war from which many have come. Many have no criminal conviction; those that do will have already served their sentence and now remain detained under immigration powers. Most detained persons are

[14] "Undercover: Britain's Immigration Secrets", BBC, 17 March 2020

[15] *Pankina v Secretary of State for the Home Department* [2010] EWCA Civ 719

not Foreign National Offenders (FNOs); though in any event FNOs are amongst the most vulnerable groups in the IRC estate, with higher levels of serious mental illness and unmet complex[16].

1.3 Unlike in prison, there is no rehabilitative or punitive purpose, or 'moral narrative', to immigration detention. As Professor Mary Bosworth, the Inquiry's expert witness on institutional culture explained, the only 'narrative' is that of the hostile environment: that those detained are dangerous or underserving foreigners who need to be removed[17].

1.4 Indefinite detention was identified as a key corrosive feature in the conditions for mistreatment. The uncertainty in which it places people induces high levels of anxiety, despair and mental distress and exacerbates pre-existing mental ill health, self-harm and suicide risk and other disturbed behaviour. This was recognised by the vast majority of witnesses who gave evidence to the Inquiry, whether former detained persons, G4S front line staff to senior managers, medical staff, independent monitoring bodies, and even some Home Office officials[18]. Jerry Petherick, the Managing Director of G4S Custodial and Detention Services, identified indefinite detention as a key stressor for detained persons: "*their sense of not knowing what was happening with them and the frustrations of their progress towards release into the UK or repatriation…the major impact on the well-being was the uncertainty of the situation they found themselves in"*[19].

2. Home Office immigration policy

2.1 The hostile environment policy was identified as a key driver for the coercive use of immigration detention to effect enforcement priorities and removal targets, and particularly the use of no notice removals and charter flights. The prioritisation of enforcement of removal over welfare in turn became a breeding ground for the desensitised and inhumane environment uncovered at Brook House.

2.2 The political narrative of hostility underpinned the very existence, development, and operation of Brook House, the centre chosen as the locus for no-notice charter removals. Lee Hanford, the interim Director of Brook House, stated in his evidence that *"there was a point in time, I think it would be about 2014, around that period of time, where there was a view from government in relation to: removal centres are removal centres, so all engagement should be about removal … the rhetoric from the government at the time, … it was quite – the rhetoric was, you know, generally all about removals"*[20]. The impact of groups of the same nationality being moved to Brook House for the purpose of charter removals reinforced a view that these persons/nationalities were dangerous and/or undeserving, feeding racial stereotyping and prejudice[21].

2.3 Mr Hanford also gave evidence of the Home Office practice of deliberately withholding information about charter flights from G4S staff, only telling a few custody staff about the upcoming

[16] First Statement of Professor Cornelius Katona, §§115-118, BHM000030_0050

[17] Professor Mary Bosworth, 29 March 2022, 47/14-22

[18] See Annex I to Duncan Lewis Closing Submissions - Witness comments on indefinite detention, DL0000260

[19] Jerry Petherwick, 21 March 2022, 98/17-25

[20] Lee Hanford ,15 March 2022, 88/19-23 and 89/7-10

[21] See Annex 5 to Duncan Lewis Closing Submissions - Instances of racist language in disclosure, DL0000264

flight and instructing them not to pass this on to ensure the flight was effective[22]. This practice had a highly detrimental impact on the welfare of detained people and relationships of trust with staff[23]. The Home Office reportedly criticised G4S staff when it appeared that they were *"showing too much empathy, supporting detainees in their appeals and the likes"*[24].

2.4 The removal imperative underpinned the Home Office-G4S contractual arrangements, which were geared towards maximising removals, with higher penalties afforded for failed removals than for incidents of self-harm or even death. There was a crude premium on profit over respect for fundamental human rights. In this context, the role of detention custody officers (DCO's) was simply to 'warehouse' people in detention for their removal, subordinating concerns for their welfare/safety to the priority of removal[25].

2.5 The structure for contractual scrutiny, which was reliant on G4S self-reporting its own breaches, compounded a general lack of supervision by G4S senior staff and Home Office officials about what was happening on the ground. It was of no institutional benefit to the Home Office to look too closely at the conditions within its centre, despite having staff on site who had direct and daily exposure to the regime. Home Office operational staff, for instance, failed entirely to interrogate the fact that no performance points were self-reported by G4S at all with respect to self-harm incidents, contrary to G4S protocol, during the relevant period, and despite the known high level of self-harming throughout these months[26].

2.6 The extent to which the removal imperative was prioritised above welfare was illustrated by the default use of force in attempted removals, irrespective of vulnerabilities. This generated an intense sense of insecurity and subjected other detained persons to witnessing and hearing the acute distress of those being forcibly removed from the IRC by officers in full riot gear (PPE). The frequent use excessive force, including deliberate pain-inducing measures, on those who were mentally unwell, self-harming or suicidal, was inevitably highly distressing and alarming.

2.7 In one such instance, a detained person had a ligature around his neck and had reported swallowing two razor blades. When the DCO was asked why he proceeded with the person's removal, he responded "*it was an escorted removal so we were obliged to present him. If he had swallowed a blade it would not have presented a huge problem. They pass straight through the body"*[27].

2.8 The clear connection between no-notice charter flights, overriding enforcement imperatives and the increased use of force was a theme across the evidence. Mr Hanford considered it a "*significant contributing factor"* to the increased use of force in 2016[28] Concern was raised by the Independent Monitoring Board (IMB) 2017 report that no-notice charter flights can lead to "*inhumane treatment"*[29].

[22] Lee Hanford, 15 March 2022, 87/11-25 and 88/1

[23] Lee Hanford, 15 March 2022, 85-86

[24] Lee Hanford, 15 March 2022, 88/13-153

[25] First Witness Statement of Jacqueline Gayford Colbran, §194, IMB000204_0066. Ms Colbran was then Chair of the Brook House IMB.

[26] Ian Castle, 15 March 2022, 22-24

[27] Chris Donnelly, 23 February 2022, 161/3-7

[28] Lee Hanford, 15 March 2022, 87/7-8

[29] IMB (2018) *Annual Report of the Independent Monitoring Board at Brook House IRC for reporting Year 2017*, §11.2 IMB000135_0023

2.9 Whilst no-notice removals were found to be unlawful[30] and were halted in 2020, they were nevertheless replaced by a large-scale compressed programme of charter removal flights to European countries in the months leading up to Brexit. In its 2020 report on Brook House the IMB again found that the circumstances in the centre as a direct consequence of this programme cumulatively amounted to "*inhumane treatment of the whole detainee population by the Home Office in the latter months of 2020"*[31]. The combination of the effects of the compressed charter flight programme, together with the high level of vulnerabilities and complex needs of the detained people, led to a "*dramatic increase in levels of self-harm and suicidal ideation"* and reciprocal deficiencies in the detention safeguards. This was compelling evidence that the same pressures were in play at Brook House in 2020 as they were in 2017. Notably in 2020 the IMB also documented a corresponding increase in use of force and segregation[32].

3. Prisonisation/criminalisation, institutional culture of dehumanisation, and racism

Prisonisation/criminalisation

3.1 Central to the evidence of the Inquiry expert Professor Bosworth was what she termed the 'prisonisation' of immigration detention: the physical design of the IRC, as well as the policies, practices, and regimes operated, embedded an institutional culture of inappropriate use of force, desensitisation and dehumanisation, such that staff felt they were "*actually working in an institution that was effectively a prison with people who were therefore criminal and dangerous"*[33].

3.2 The unanimous evidence of witnesses was that Brook House looked and felt like a prison. Built as a category B prison, it was intended originally to be used only as a 72-hour holding centre for individuals facing imminent removal, but was extended far beyond its purpose. The physical environment was manifestly prison-like: cell-like rooms with heavy security doors; a concrete yard; cramped conditions, in cell toilets and limited space for association. This was also reflected in how the centre was run: extended lock-ins, night patrols, and limited opportunities for association/exercise. Professor Bosworth considered it a "*very very harsh environment to be in"*[34] and that the prison-like conditions "*can lead to behaviour which can…go unchecked…"*[35].

3.3 Overall, the IRC ran an impoverished, punitive regime driven by cost-cutting measures. The range of witnesses agreed:

[30] *FB (Afghanistan) and Medical Justice v Secretary of State for the Home Department* [2020] EWCA Civ 1338

[31] IMB (2021) *Annual Report of the Independent Monitoring Board at Brook House IRC for reporting year 1 January 2020 – 31 December 2020*

[32] "Revealed: Guards used force on suicidal asylum seekers after training had expired", *Liberty Investigates*, 26 December 2021

[33] Professor Mary Bosworth, 29 March 2022, 13/23-25, 14/1-2, 39/18-22 and 46/10-12

[34] Professor Mary Bosworth, 29 March 2022, 33/15-16

[35] Professor Mary Bosworth, 29 March 2022,12, 9-25

- D1618 (formerly detained person): "*I don't think there is any other name for what it looked like than a prison…barbed wires, high fences…the…huge gates you have in prison. I have never been to prison before, but I've seen in movies and the news, that's just what it looked like"*[36].

- Hindpal Singh Bhui, HM Inspectorate of Prisons (HMIP) Inspection Team Leader for immigration detention, reiterated HMIP's long-standing position that Brook House was inappropriate for administrative detention: "it is a centre which looks and feels like a prison and is designed like a prison. As we have said many times, that's inappropriate for a detainee population"[37]. He also spoke of the cramped conditions, poor sanitation, lack of privacy as a "fundamental assault on dignity"[38].

- Jerry Petherick stated that the use of Brook House far beyond its conception as short-term holding centre, to holding detained people for indefinite and longer periods, exacerbated the impact of its prison-like design and restricted regime[39].

- Phil Schoenenberger, then Head of the Home Office's Detainee Escorting and Population Management Unit (DEPMU), accepted that the way Brook House was run was inconsistent with the ethos and requirements under Rule 3 of the Detention Centre Rules 2001, i.e. the provision of humane accommodation, in a relaxed immigration detention regime, with as much as freedom of movement possible[40]. He was forced to accept that the harsh regime and conditions compromised the welfare and dignity of those held there in order to save costs[41].

3.4 The effects of prisonisation extended beyond the IRC physical lay-out to the cross-application of prison-based policies, methods, and practices, including HM Prison and Probation Service's (HMPPS) Use of Force model, and segregation. Professor Bosworth stated that the use of prison-based measures was inappropriate: IRCs are not the same as prisons and should not be using a prison-based model[42].

3.5 The DCO training programme and language was also prison-based, with an emphasis on security and even counterterrorism[43]; this reinforced the damaging stereotyping of detained people as 'dangerous' and 'risky', and as individuals who needed to be controlled, rather than cared for.

3.6 Professor Bosworth was "*quite clear*" in her live evidence that the prison-like conditions, practices, and operation of Brook House contributed to the mistreatment of detained people: "*if you lock people up in a building that looks like a prison, you tell those people and the people who are looking after them that they are criminals…there's a sort of symbolism to it….that kind of symbolism was reinforced in training materials, in the language"*[44]. Similarly Dr Brodie Paterson, an expert on the use of restraint in clinical settings, explained in his evidence the adverse impact of the hostile environment

[36] D1618, 3 December 2021 64/1-6
[37] Hindpal Singh Bhui, 24 March 2022, 154/1-7
[38] Hindpal Singh Bhui, 24 March 2022, 154/21-25
[39] Jerry Petherick, 21 March 2022, 55-56
[40] Phil Schoenberger, 23 March 2022, 16/14-25 and 17/1-4
[41] Phil Schoenberger, 23 March 2022, 17/5-15
[42] Professor Mary Bosworth, 29 March 2022, 107/4-7
[43] Professor Mary Bosworth, 29 March 2022, 37/22-25, 38/1-12 and 63/9-14
[44] Professor Mary Bosworth, 29 March 2022, 13/7-21

narrative of foreign nationals as 'threats' and sources of extremism and criminality on the treatment of detained persons[45].

Institutional culture of dehumanisation

3.7 Prisonisation informed the conditions for desensitisation to and dehumanisation of detained persons by staff at Brook House. As Professor Bosworth stated: "*it is a lot easier to be desensitised towards people who you kind of think are not like you and you don't value*"[46]. Dr Paterson similarly explained how stereotyping and labelling leads to "*moral distance*" whereby detained people were deemed less than human and undeserving of basic empathy[47]. It is within this moral vacuum that the conditions for abuse could flourish.

3.8 Desensitisation was identified as a critical means of self-preservation for IRC staff against their exposure to high levels of distress, self-harm and suicidal behaviour on a daily basis. G4S staff confirmed they were simply not equipped to deal with the high incidence of vulnerability and mental illness amongst detained persons, having received no training on mental health. This left them unable to distinguish between signs of serious mental ill-health, requiring urgent clinical support, and behaviour which was simply disruptive or 'manipulative'. As one DCO put it, they had no way of telling if a detained person was mentally ill or "*just lying or blagging or messing around*"[48].

3.9 This led to an entrenched scepticism amongst staff concerning symptoms of serious mental illness. People in acute distress or self-harming were labelled as 'manipulative' or 'attention-seeking'.[49] Professor Bosworth described how desensitisation was a means for staff to abdicate moral responsibility for their actions: "*it becomes part of their narrative, about why they did what they did… "I acted in that way because I was desensitised, not because I'm a terrible person"…it can be used…as a way of explaining to themselves things perhaps they would otherwise be troubled by*"[50]. Dr Paterson concurred, explaining how the re-characterising of distressed behaviour as 'instrumental' and 'disingenuous' served to re-label the officers' own response to such behaviour, i.e. excessive use of force, as "*morally justified*"[51].

3.10 Reverend Nathan Ward, former G4S Senior Manager and a key whistle-blower on the G4S failings and the abuse in Brook House, explained the culture as follows: "*we find ourselves in a system where staff are having to deal with that trauma and simply do not have the skills or ability to manage that and therefore the only way they can manage is by dehumanising the people in front of them and at the point of dehumanisation you're on the slippery slope to despair*"[52].

3.11 The effects of desensitisation were also worryingly evident in the healthcare staff. Despite their specific protective obligations, they were equally inured to the suffering of detained persons. When

[45] First Witness Statement of Dr Brodie Paterson, §§106-107, BHM000045_0024-25

[46] Professor Mary Bosworth, 29 March 2022, 46/10-12

[47] First Witness Statement of Dr Brodie Paterson, §89, BHM000045_0020 and §106, BHM000045_0024

[48] Ioannis Paschali, 24 February 2022, 30/1-7; see also Chris Donnelly, 23 February 2022, 137/21

[49] See for example the refrain from a DCO about a detainee who was on constant watch for self-harm/suicide attempts: "*hurting yourself, you're attention-seeking aren't you, you little prick*", TRN0000097_0002

[50] Professor Mary Bosworth, 29 March 2022, 51/17-25

[51] First Witness Statement of Dr Brodie Paterson, §105, BHM000045_0024

[52] Reverend Nathan Ward, 7 December 2021, 167/23-25 and 168/1-4

asked why she did nothing in the face of officers' verbal abuse of a suicidal detained person, a nurse stated it "*washed over (her) like banter*"[53]; the language was "*day to day*" and that "*you almost become immune to what's going in there. You just do your job and go away*".[54] In fact she actively participated in this language, commenting about the same detained person: "*he's an ass basically…he can't get what he wants*".[55]

3.12 Professor Bosworth gave evidence as to how such dissociation from suffering led to the '*extensive normalisation*' of inappropriate, abusive attitudes and behaviours towards detained persons.[56] Dr Paterson, described how the "*saturating*" effect of this abusive culture led staff to re-define mistreatment of detained persons as "*merely conformity*" and the way things were done around here.[57] Most of the staff acquiesced and failed to challenge misconduct. Those few that did try and speak out were suppressed through bullying, ostracism, and intimidation. One former staff member, Mr Owen Syred, when asked why he did nothing on witnessing a "*dominant DCO*" punch a detained person square in the face, responded: "*if I'd have reported that... you know for a fact I'm going to get ostracised*".[58] A culture of impunity was evident and was reinforced by the inaction of mangers and a closing of ranks around those implicated in mistreatment and abuse.

3.13 Evidence of the demeaning, abusive treatment of vulnerable people in detention was widespread and extensive. This ranged from cruel indifference, to the use of graphically violent language to and about detained persons. By way of illustrative examples:

- The threat made by DCO Yan (Ioannis) Paschali to a vulnerable detained person whom he was restraining: "*Don't fucking move, you fucking piece of shit. I'm going to put you to fucking sleep*"[59].

- The response of a Detention Centre Manager (DCM) on finding a detained person with a ligature round his neck: "*we'll wait for a minute until you pass out and then we'll cut you down*"[60].

- A DCO talking to other officers about gagging, injecting, and gassing detained persons: "*just fucking tape 'em and bag 'em….get the gas, chuck it in there…they're all knocked out…needle in*"[61].

- A DCO's direct threat to a detained person (who he had just called a *"cunt"* and a "*fucking dick*"): "*I'm going to skullfuck you like the little bitch you are*"[62].

[53] Jo Buss, 14 March 2022 136/22-23 and 141/9-10
[54] Jo Buss, 14 March 2022 141/16-20
[55] Jo Buss, 14 March 2022 129/4-17
[56] Professor Mary Bosworth, 29 March 2022, 81/13-17
[57] First Witness Statement of Dr Brodie Paterson, §104 and §126, BHM000045_0024
[58] Owen Syred, 7 December 2021, 126/10-14
[59] "Undercover: Britain's Immigration Secrets", BBC, 17 March 2020, 49:02-49:09
[60] TRN0000095_0033 [1068]
[61] TRN0000084_0010 [241, 268]
[62] TRN0000083_0038 [1383]

- Successive abuse from various officers directed at D1275, a highly vulnerable detained person who lacked mental capacity was lying on the floor, suffering from a spice attack; this included: "*Div*"[63] "*Scrotum*"[64] "*ball sack*"[65] "*does your face taste nice*"[66] "*look at the state of that…imagine bringing that home to your mother*"[67] [68].

- The chilling refrain to the effect that '*if he dies, he dies*' was used by three different officers in separate references to detained person's acute distress[69].

- A DCO shouting and swearing at a highly vulnerable detained person on constant watch on E wing, threatening to "*smash the fucking shit out of him";* the detained person was sectioned in a psychiatric facility two days later[70].

- Dialogue between DCOs who they speak of "*softening up*"[71] detained persons, "*crack[ing]*" them "*in the ribs*" and "*drop[ping]*" a "*cunt*" [72] in a fight.

Racism

3.14 A key aspect of dehumanisation was racism. Professor Bosworth was clear that this was institutional[73], agreeing with Stephen Shaw's findings from his 2005 PPO report on Oakington IRC that the risk of racism and abusive practice was inherent in the IRC system[74]. Evidence of pervasive racism was identified amongst G4S staff by the Mubenga Inquest in 2013[75] and by undercover reporting at Yarl's Wood IRC in both 2004 and 2015[76].

3.15 Extensive examples of racism were identified by the Inquiry: its use and effect by staff was pervasive and unchallenged, ranging from derogatory racist and xenophobic stereotyping to overt explicit racist tropes[77].

3.16 The Inquiry heard of the recurrent racist language used by one DCO, Daniel Small, in exchanges with his colleagues[78]; when asked in evidence why he had used such language, Mr Small said that he was "*just following suit what everyone else did, just using the terminology that was used*"[79]; with reference

[63] TRN0000092_0041 [1447]
[64] TRN0000092_0046 [1482]
[65] TRN0000092_0047 [1515]
[66] TRN0000092_0039 [1194-1195]
[67] TRN0000092_0037 [1097-1098]
[68] "Undercover: Britain's Immigration Secrets", BBC, 17 March 2020, 16:06-17:05
[69] TRN0000092_040 [1231-1232] regarding D1275; TRN0000087_0016 [596] regarding D1914. See also CPS000025_0013 regarding D2159 (slightly different formulation: "not to worry if he dies")
[70] "Undercover: Britain's Immigration Secrets", BBC, 17 March 2020, 42:10-42:50
[71] TRN0000077_0005
[72] TRN0000077_0042-43 [41]
[73] Professor Mary Bosworth, 29 March 2022, 97/10-13
[74] PPO (2005) *PPO Inquiry into allegations of racism and mistreatment of detainees at Oakington immigration reception centre and while under escort*, 3-4
[75] Report by Assistant Deputy Coroner Karon Monaghan QC under the Coroner's Rules 1984, Rule 43: Inquest into the Death of Jimmy Mubenga, 23 July 2013
[76] See Witness Statement of Emma Ginn, §14, BHM000041 0004-5 and §§121-122, BHM000041_0043-44
[77] See Annex 5 to Duncan Lewis Closing Submissions - Instances of racist language in disclosure, DL0000264
[78] The DCO said that there were "*too many blacks*" in Cleveland - TRN0000079_0010 [254]; that Grenfell had resulted in "*a few less foreigners in England*" - TRN0000068_0006; and "*why are you in Britain? Fuck Off back. Cunt. No wonder if you're in shithole Jamaica*" - TRN0000092_0050
[79] Daniel Small, 28 February 2020, 149/23-25

to his recorded comment, "*this job has made me racist*"[80], he confirmed that "*the environment moulded you*"[81].

3.17 The Inquiry heard of at least three instances of custody officers using the "N" word directly to or about detained persons[82]. This is the most extreme racially offensive slur: used to deliberately provoke and debase. Examples included the following:

- The slur was used by a senior control and restraint (use of force) trainer John Connelly to a group of officers in respect of the planned removal of a vulnerable detained person, D275, who was on the suicide netting, with razor blades in his mouth[83]. At the same time Mr Connelly proposed extreme violence as part of the planned restraint.

- Mr Owen Syred, a G4S welfare officer, was subjected to a campaign of harassment by other G4S staff, including being called an 'N lover' when he complained about the use of slur by another DCO in respect of a detained person[84].

3.18 Professor Bosworth explained how the function of the IRC estate, namely the exercise of coercive powers over foreign nationals to effect their removal, together with the wider effects of the hostile environment, means that the risk of racism is ever-present[85] stating, "*if you build an institution like a high-security prison and you fill it with foreign nationals for the purpose of their removal, I think, you know…you are kind of setting up a system where this sort of behaviour is always going to be a risk*"[86].

3.19 Despite previous findings of racism and warnings of the risk of a repeat by Stephen Shaw and others, it was evident that no effective steps had been taken to address these risks and that institutional racism was embedded in Brook House. Neither G4S nor the Home Office addressed this pressing issue in their witness evidence or identified any steps that had been taken since, or would be taken in the future, to address it. This was a further important indicator of institutional racism.

4. Misuse of force and segregation

4.1 Another key thematic issue in understanding the cause and contributing factors of mistreatment and abuse was the inappropriate and/or unlawful use of coercive measures, such as restraint, use force and segregation, to manage very unwell detained individuals. The prison-based model of Control & Restraint (C&R) was used as the default tool to manage all incidents, irrespective of the vulnerabilities of the detained person.

[80] TRN0000092_0050 [1612]

[81] Daniel Small, 28 February 2020, 147/19

[82] John Connolly regarding D275 – see TRN0000085_0044 [1474]; Graham Purnell regarding D643 – see D643 witness statement, §76, DL0000228_0020; DCO Gurney – see First Witness Statement of Owen Syred, §§125-127, INN000007_0030

[83] "Undercover: Britain's Immigration Secrets", BBC, 17 March 2020, 28:30-28:41

[84] Owen Syred, 7 December 2021, 116/21-25, 117-118 and121/2-11; see also First Witness Statement of Owen Syred, §§125-127, INN000007_0030

[85] Professor Mary Bosworth, 29 March 2022, 98/1-17; PPO (2005) *PPO Inquiry into allegations of racism and mistreatment of detainees at Oakington immigration reception centre and while under escort*, 3-4

[86] Professor Mary Bosworth, 29 March 2022, 74/2-9

4.2 Jon Collier, the Inquiry Use of Force (UoF) expert, identified from the 43 UoF incidents he reviewed recurrent concerns of force not being used as last resort; lack of de-escalation attempts; inappropriate blanket use of PPE (riot gear and shields); and, most critically, the inappropriate use of force on those with mental illness.

4.3 Dr Rachel Bingham, the lead clinical practitioner at Medical Justice, gave persuasive evidence as to the "*perfect storm*" of conditions which give rise to the conditions for mistreatment. In a context in which staff lack the therapeutic tools or resources to care for vulnerable detained persons, treating their distressed behaviour as refractory, recourse to coercive measures is inevitable [87].

Prison-based C&R model

4.4 Mr Collier accepted that no adjustments were made to prison UoF techniques to reflect the particular vulnerabilities and complex needs of those in immigration detention. There was no guidance in the training policy then, or now, on the use of force in the context of mental illness[88].

4.5 Dr Paterson's view was that the use of high-tariff and pain-based techniques on those in mental distress and/or who lack mental capacity is particularly problematic , since they may have impaired responses to the use of pain, thereby risking prolonged/more extreme force[89].

4.6 The consensus of evidence from both Mr Collier, Dr Paterson and Dr Bingham was that the HMPPS's UoF model is inappropriate in the IRC context; an alternative therapeutic model was required that is more reflective of the complex needs of those in immigration detention.[90]

Misapplication of C&R model

4.7 The unsuitability of the C&R model for the clinically vulnerable was compounded by poor training, the misapplication of the authorised techniques, staff incompetence, and poor supervision. Mr Collier identified a score of incidents where force was used inappropriately against vulnerable persons. Approximately 25% of the 43 incidents he reviewed raised significant concerns over staff incompetence[91].

4.8 Mr Collier's evidence was that this was likely only the tip of the iceberg: given the limits of his expertise, and not having the benefit of review of the clinical records and reports, there was "*every likelihood*" there were more other incidents of the inappropriate restraint of clinically vulnerable detained persons beyond those he had identified[92].

[87] Dr Rachel Bingham, 14 March 2022, 55/3-15

[88] Jon Collier, 30 March 2022, 140/3-24

[89] First Witness Statement of Dr Brodie Paterson, §47, BHM000045_0001

[90] Jon Collier, 30 March 2022, 147-148

[91] Jon Collier, 30 March 2022, 31/1-10; see also Jon Collier, Day 41 AM Live Stream (30 March 2022), 40:03-42:40

[92] Jon Collier, 30 March 2022, 138/14-24

4.9 The evidence illustrated the recurrent pattern of misuse of force. Force was used as a first-line response to episodes of acute distress and self-harming, without sufficient attempts at de-escalation or clinical input, and/or executed with unsafe/incompetent techniques. Examples include:

- D687: who was subject to restraint after being found with a ligature around neck[93]. Mr Collier considered the recourse to force unjustified, with no prior attempts to engage and de-escalate the person's distress. The incident was indicative of "*crisis management*", officers "*intent on getting the incident done and dusted*" with no consideration of underlying vulnerability or the need to call healthcare[94] [95]. D687 was later admitted to hospital with chest contusions indicative of serious struggle/excessive pressure.

- D2159: a very vulnerable detained person who, being on constant watch for prolonged food refusal, required a protective move to E wing given serious clinical concerns. He was so weak he could barely stand. Despite his acute vulnerability, D2159 was subject to a high-level restraint: a riot shield pinned on top of him, whilst lying down, and placed in arm locks and handcuffs. Mr Collier was clear that all/any force here was entirely inappropriate: the incident should have proceeded as a medical move from the outset. No attempt was made to assess or engage with D2159, despite being so obviously unwell[96].

- D1914: who officers were aware suffered from a serious heart condition and self-harm history. On entry of the C&R team, he was found lying half-naked, pleading "*I'm sick, I die".* He suffered a clinical episode mid-restraint, yet force continued. Mr Collier considered force completely unjustified. The incident was a medical move and should have been treated as such [97].

4.10 The inappropriate use of force was compounded by a "*cultural process of automatically resorting to staff in full PPE"*[98] for all planned removals, despite this only being required for high-risk removals. Officers unnecessarily clad in riot gear and the use of shields reinforced the conception of the environment as unsafe and intimidatory, and heightened the sense of fear and anxiety that pervaded Brook House.

Misuse of force against naked detained persons

4.11 There was a disturbing pattern of use of force against naked vulnerable detained individuals. Mr Collier raised concern over the practice and the "*unusually high"* number of incidents in so short a space of time[99]. This was attributed to the incidence of no-notice removals, with many subject to sudden restraint in the early hours of the morning to effect their no-notice removal.[100]

[93] "Undercover: Britain's Immigration Secrets", BBC, 17 March 2020, 38:12-38:30

[94] Jon Collier, 30 March 2022, 94/12-21

[95] See also First Witness Statement of Dr Rachel Bingham, §§147-148, BHM000033_0056

[96] Jon Collier, 30 March 2022, 112/23-25, 113/1-23, and 114-119

[97] Jon Collier, 30 March 2022, 127/11-20 and 128/8-12

[98] First Report of Jon Collier, §658, INQ000111_0156

[99] Jon Collier, 30 March 2022, 61/1-19; Jon Collier, Day 41 AM Live Stream (30 March 2022), 01:43:14-01:45:55

[100] Jon Collier, 30 March 2022, 61/22-25 and 62/1-8

4.12 One stark example was D2416, who was restrained whilst naked for a charter flight removal. He was left naked in front of numerous officers for almost 10 minutes whilst staff tried to find a sheet. Mr Collier considered this treatment inherently degrading[101]. D2416 was in a highly distressed state and clearly mentally unwell. Mr Collier had changed his view on UoF justification after viewing late disclosed body worn footage, which discredited officers' claims that force was used as last resort.[102]

4.13 D1234[103], another highly vulnerable detained person on suicide watch, was also subject to prolonged C&R restraint whilst naked to facilitate his charter flight removal. On entry of the C&R team, D1234 was seen in the footage to be naked, chanting phrases such as *'Jesus' 'fire' 'I am here, I am power'*[104]. D1234 was restrained supine on the ground, before being transferred in a carry lift for handover to escort officers, and then placed in a waist restraint belt, leg restraints, and rigid-bar hand-cuffs. Mr Collier found this force excessive and unjustified, criticising the execution of an unsafe carry technique and non-approved seated restraint which had been removed from UoF curriculum in 2015, given the risk of positional asphyxia following recommendations from investigation into the death of Jimmy Mbenga[105]. Shockingly it was still being used in Brook House in 2017.

4.14 Mr Collier similarly found the restraint of D2054 excessive and degrading[106]. He suffered from serious mental health issues and had been moved onto constant watch that morning after self-harming. With striking similarity to the above cases, D2054 was restrained naked and left for a long period of time, with only a towel to preserve his modesty, awaiting handover for removal.

5. Governance and oversight of Use of Force

5.1 Use of Force governance was very poor, facilitating the persistence of misuse of force and abusive practices.

5.2 Mr Collier criticised the inadequate UoF supervision by DCMs, lack of basic incident management, sanctioning of incorrect/unsafe C&R measures, poor incident de-briefs and the absence of senior management oversight.

5.3 The post-incident review process was seriously deficient. This was a tick-box pro-forma, with the significant majority undertaken by the same DCM, who reviewed many incidents he had supervised. Mr Collier identified a clear conflict of interest, with the DCM *"reviewing his own homework",* creating a system which *"lacks any credibility"*[107]. No training needs/lessons learned by IRC staff were identified from this process, despite the range of concerns raised by the Inquiry's UoF expert.

[101] Second Supplementary Report of Jon Collier, §36, INQ000177_0009

[102] See Jon Collier, Day 41 AM Live Stream (30 March 2022), 01:52:04-01:55:07. The detained person was given only '26 seconds' to comply before use of force was deployed.

[103] This case was referred to the Inquiry by Rt Hon. Harriet Harman MP, after D1234 raised a complaint to her about his treatment in Brook House.

[104] Footage of this incident is available at Day 41 AM Live Stream (30 March 2022), 1:06:41-01:17:22.

[105] Jon Collier, 30 March 2022, 49-56

[106] Jon Collier, 30 March 2022, 69-70

[107] Jon Collier, 30 March 2022, 177/22-25 and 178/1-4

5.4 Criticism was also made of the 'prevailing' culture of officers not using body-worn footage cameras[108], which could be used as a means of cover-up. There was a stark mismatch between officers' written accounts and what the footage often showed, with Mr Collier compelled to change his opinion on the lawfulness of force in several incidents after reviewing late disclosed footage from G4S that discredited officers' accounts that force was proportionate and used as last resort.

5.5 These failings in oversight facilitated a climate of impunity where the abusive use of force and excessive force persisted unchecked. Late disclosed body-worn footage of the restraint of D52 showed the lens of the camera being covered at the outset of the restraint and remaining there throughout the application of a pain-inducing technique against a person already restrained on the ground. The inevitable and "*massively*" concerning conclusion, Mr Collier accepted, was that someone had deliberately covered the camera to obstruct use of force accountability[109].

6. Systemic defects in detention and clinical safeguards

6.1 Dr Jake Hard, the Inquiry clinical expert, found that there was a "*deprivation of safeguards*" at Brook House, which contributed to the mistreatment of vulnerable detained persons[110]. Home Office 'Adults At Risk' (AAR) policies and procedures designed to identify and protect clinically vulnerable persons at particular risk of harm in detention, by effecting their prompt identification and release, were not being followed at all. Further still, the entire system was dysfunctional[111].

6.2 Dr Hard identified a fundamental lack of understanding amongst healthcare staff as to the role and application of detention safeguards: "*the understanding of why the Detention Centre Rules are here in the first place seems to historically have been lost along the way*"[112]. The critical safeguarding role of healthcare instead operated as "*more of a footnote*"[113].

6.3 The dysfunction of these safeguards caused real and serious harm. Dr Hard said: *"Without these safeguards being used to their full force, at the earliest opportunity, then it appears that … the only consequence [is] that people are likely to come to more harm"*[114]. This was the clinical consensus of Dr Bingham and Professor Cornelius Katona, Chair of the Royal College of Psychiatrists. Even Ian Cheeseman, the Home Office senior civil servant responsible for the design of the AAR policy was forced to accept that the Home Office had not accepted key recommendations of the Shaw review and that the AAR policy was not working as intended to protect vulnerable people from detention or prolonged detention[115].

[108] Jon Collier, 30 March 2022, 157/3-25 and also 158/1-2
[109] Jon Collier, 30 March 2022, 166/1-19
[110] Dr Jake Hard, 28 March 2022, 178/20-25 and 179/ 7-9
[111] Dr Jake Hard, 28 March 2022, 72/17-19
[112] Dr Jake Hard, 28 March 2022 24/1-7
[113] Dr Jake Hard, 28 March 2022 180/4-5
[114] Dr Jake Hard, 28 March 2022 54/24-25 and 55/1-3
[115] Ian Cheeseman, 16 March 2022, 203/11-16

Rule 34 and Rule 35

6.4 The key clinical safeguards in detention are the combination of Rule 34 (an initial medical assessment) and Rule 35 (a medical report documenting a concern) of the Detention Centre Rules 2001[116]. These are meant to identify vulnerable detained individuals promptly, and trigger a review of their continued detention.

6.5 Rule 34 requires a physical and mental examination to be carried out by a GP within 24 hours of a person entering an IRC. If done in compliance with the rule, it should provide sufficient information for a GP to form a clinical view as to whether to raise a Rule 35 report with the Home Office, triggered by a concern that a person may be at risk of harm by ongoing detention.

6.6 The Rule 34 and 35 safeguards should, when operating together effectively, pre-empt and prevent a vulnerable person from being exposed to risks of harm and deterioration in their health, by bringing them promptly to the attention of the Home Office to review their suitability for continued detention.

6.7 The evidence before the Inquiry showed a complete breakdown in these key safeguards. Rule 34 examinations were not taking place and were not operating to identify those who required Rule 35 reports. Sandra Calver, the Head of Healthcare at Brook House both then and now, confirmed that Rule 34 examinations were only allocated 5 minutes[117], and now 10 minutes[118], for initial GP appointments. Dr Hussein Oozeerally, the lead GP at Brook House and co-director of DoctorPA Ltd, sub-contracted to provide the IRC GP services, accepted that these appointments were "*almost like a triage",* in which "*you couldn't possibly do a full mental state examination"* [119].

6.8 Dr Hard, the Inquiry expert, expressed surprise at the Rule 34 arrangement, which was at best *"a very very cursory appointment"*, in which it was *"impossible"* to fulfil the requirements of a Rule 34 examination or to complete a Rule 35 report in the limited amount of time allocated.[120] Due to this, the evidence of the clinical staff was that a practice had developed in which a follow-up GP appointment would be booked for people who disclose vulnerabilities which require a Rule 35 assessment[121]. These second GP appointments could take 2-4 weeks to be arranged[122], during which time the risk that such vulnerable persons will be exposed to harm increased, and occurred.

6.9 Ms Sandra Calver, the Head of Healthcare at Brook House accepted in her evidence that the defective operation of the Rule 34 safeguard could expose vulnerable people to prolonged detention and the risk of harm[123]. She stated however that this practice was the same "*throughout all of the IRCs as well"*[124].

[116] The Detention Centre Rules 2001
[117] Sandra Calver, 1 March 2022, 207/4-7, 208/16-25 and 209/1-15
[118] Sandra Calver, 1 March 2022, 207/8-11
[119] Dr Husein Oozeerally, 11 March 2022, 9/9-20
[120] Dr Jake Hard, 28 March 2022, 19/1-25, 20/6-14
[121] Dr Husein Oozeerally, 11 March 2022, 18/18-25 and 19/1-15; Dr Saeed Chaudhary, 11 March 2022, 204/1-9
[122] Dr Husein Oozeerally, 11 March 2022, 20/9-12
[123] Sandra Calver, 1 March 2022 212/8-25, 213/1-16
[124] Sandra Calver, 1 March 2022 209/1-6

6.10 Another key problem identified in the evidence was that the vast majority of Rule 35 reports were prepared under the Rule 35(3) limb, triggered by a concern that the detained person may be a victim of torture. Rules 35(1) (concern that detention is injurious to a detained person's health) and Rule 35(2) (concern that a person is at risk of suicide) are rarely used. Dr Hard found it "*shocking*" that only two Rule 35(1) reports and no Rule 35(2) reports were completed in the relevant period, despite the high incidence of self-harm and detained individuals on constant or regular watch under the Assessment Care in Detention and Teamwork (ACDT) regime to reduce self-harm and manage suicide risk[125].

6.11 The evidence uncovered a systemic misunderstanding amongst healthcare staff over the correct application of Rule 35. Key healthcare witnesses, including Ms Calver[126] and Dr Oozeerally[127], showed a lack of understanding of the relevant thresholds for Rule 35 reports. Dr Oozeerally had never completed a Rule 35(2) report on suicidal ideation in the whole time he had been at the IRC, since 2014.

6.12 The Home Office were well aware of, but not concerned by, the serious under-reporting of Rule 35 reports under limbs (1) and (2)[128] and the fact this was clear evidence that the safeguards were not operating effectively. Instead, it appears healthcare staff were wrongly encouraged by the Home Office to use an alternative Part C process to raise concerns[129], despite this being a purely administrative mechanism for internal information-sharing which fails to trigger the protective review of a person's detention as Rule 35 does, and not, as the High Court found in 2018, a substitute for a Rule 35 report.[130] Of the 28 Medical Justice clients detained at Brook House during the relevant period, not a single person for whom a Part C was submitted in place of a R35 report was released.

6.13 Rule 35(3) reports for victims of torture were also of a very poor quality. Dr Hard confirmed that ¾ of the reports he reviewed contained no information on the impact of detention, despite being required by the AAR policy. The reports also failed to identify the psychological sequalae of torture and other symptoms of trauma which should be a "*red flag*" to end detention[131].

6.14 The evidence clearly illustrated that the Rule 34/Rule 35 safeguards are not being used, or not understood properly by those tasked to apply them. Ms Calver accepted that the flawed approach from healthcare was "risky" and "dangerous", in allowing actual harm to occur before action was taken[132]. This was starkly illustrated by the experiences of numerous detained persons. For example, in the case of D801, no Rule 35(1) or Rule 35(2) report was prepared despite a clinician's recommendation that he needed an urgent transfer to a psychiatric unit and after he attempted suicide. It took some 35 days until he was finally released under a Rule 35(1), during which time he suffered an acute deterioration his mental state, with the experience of prolonged detention precipitating traumatic flashbacks[133].

6.15 The dysfunction of R34/35 failings is at the heart of why there is such a high incidence of highly vulnerable people in immigration detention at risk of or suffering harm, contrary to the statutory

[125] Dr Jake Hard, 28 March 2022, 58/4-7
[126] Sandra Calver, 1 March 2022, 217-225
[127] Dr Husein Oozeerally, 11 March 2022, 59-60
[128] Dr Husein Oozeerally, 11 March 2022, 61/9-18; Ian Cheeseman 16 March 2022, 200/15-25 and 201/1-7
[129] Ian Cheeseman, 16 March 2022 201/1-7
[130] *Medical Justice and Others v Secretary of State for the Home Department* [2017] EWHC 2461 (Admin)
[131] Dr Jake Hard, 28 March 2022, 38/4-7
[132] Sandra Calver, 1 March 2022, 218/1-24 and 219/1-4
[133] Dr Jake Hard, 28 March 2022, 72/20-25 and 73-75; Dr Rachel Bingham, 14 March 2022, 37-41

intention in s 59 of the Immigration Act 2016[134] and the statutory Adults At Risk guidance[135]. This is a root cause of the conditions leading to ill-treatment and abuse at Brook House.

6.16 There was no indication that the situation has improved since 2017. Indeed the evidence demonstrated an ongoing failure to complete reports properly, despite the high prevalence of mental illness in detention[136]. Dr Sarah Bromley, the National Medical Director for Health in Justice for Practice Plus Group (PPG), the current healthcare contractor, said with reference to the safeguard in Rules 34 and 35, "*it is likely that it will continue to be breached, particularly as numbers ramp up in Brook House*"[137].

Absence of effective mental health treatment/training

6.17 There was a serious deficit in mental health training/resources for healthcare staff. Ms Calver, as the Head of Healthcare, accepted that, whilst PTSD was the prevailing mental health disorder amongst detained persons, her staff were not sufficiently trained in identifying trauma-related symptoms[138].

6.18 PTSD and symptoms of trauma were routinely not recognised and assessed even following an express disclosure of torture. This led to vulnerable people in detention being deprived of the Rule 35(1) safeguard and exposed to a worsening of traumatic symptoms in the detention environment.

6.19 Dr Bingham gave the example of D1525[139], in respect of whom healthcare staff, despite raising a Rule 35(3) report which recorded he may be a victim of torture and his related symptoms, failed to consider the impact of detention on his symptoms of trauma. It was not until he received an external report by a Medical Justice psychiatrist that a diagnosis of PTSD was made which also identified the adverse impact of incarceration, and he was released shortly thereafter.

6.20 Even where trauma-related and other serious mental health issues were identified, no active steps were taken by healthcare staff to raise this with the Home Office to review continued detention. In the absence of appropriate secondary mental health care provision, such as trauma therapy, staff resorted to 'managing' serious ill-health by custodial risk management tools including segregation. Ms Karen Churcher, a Registered Mental Health (RMN) Nurse at Brook House, accepted that the forms of intervention used failed wholesale to address or mitigate the underlying mental distress and symptoms, focusing purely on risk management over therapeutic care[140].

6.21 The absence of appropriate therapeutic care contributed to the culture of disbelief from healthcare and custodial staff around mental illness explained in §3.9 above, indications of self-harm, distress, and suicidal ideation were viewed by healthcare as 'refractory' or manipulative and requiring intervention by way of custodial measures, such as ACDT monitoring, segregation, and use of force. The persistent mischaracterisation by healthcare staff of signs of serious mental illness as merely behavioural

[134] Immigration Act 2016 s 59
[135] Immigration Act 2016: Guidance on adults at risk in immigration detention
[136] Dr Rachel Bingham, 14 March 2022, 34/4-13
[137] Sarah Bromley, 1 April 2022, 168/1-7
[138] Sandra Calver, 1 March 2022, 186/6-16
[139] Dr Rachel Bingham, 14 March 2022, 6-9
[140] Karen Churcher, 10 March 2022, 56/1-25

was illustrated by one nurse referring to a detained person in the midst of suicidal crisis as "(having) *a massive hissy fit on the floor"*[141]. Another attributed the distress of a detained person, who had jumped onto the suicide netting with a plate shard, to him having to do the washing-up[142].

6.22 Like Mr Collier and Dr Paterson, Dr Bingham raised concerns about the widespread practice of force being used as a first-line response to detained persons who had self-harmed or evidenced suicidal ideation[143]. She referred to the case of D812, who was subjected to a planned removal to E wing after threats of self-harm: he was found lying on his bed, with a plastic bag wrapped tight around his head. The bag was removed, he was pinned with a shield, then restrained prone several times[144]. The case of D2183 was also instructive: a restraint to effect his removal continued even after he cut his neck with a razor, he was pinned with a shield, restrained on the floor and placed in handcuffs[145]. Force was used in both cases as a crude and entirely inappropriate tool to manage acute suicidal distress when plainly what was required was compassionate clinical intervention.

6.23 The constant watch (ACDT) process was used as the primary mechanism for detained persons at risk of self-harm or suicide. This was implemented by custodial staff, with no clinical or therapeutic input, and detached from the safeguarding processes. Those at risk of suicide were not notified to the Home Office under Rule 35(2) reports. Dr Bingham was clear that ACDT monitoring was "*not a clinical response…that's just a behavioural management response form security staff…it doesn't lead to any clinical protection of that person*"[146].

6.24 Segregation, itself a restrictive practice, was used as a crude containment strategy to manage seriously unwell, distressed and high-risk behaviours associated with mental illness, such as self-harming or suicidality. Dr Bingham was clear segregation was not a substitute for clinical treatment: "*it is worse than nothing…..its actually something that would harm…mental health"*[147]. The harmful effects of segregation on those who suffer from pre-existing mental health issues are well-documented, associated with a worsening of trauma-induced symptoms and increased risk of suicidality[148].

6.25 For example D2830 was removed to segregation after self-harm with razor blades, being relocated, under restraint, on the basis of preventing self-harm[149]. Similarly, D2951, who suffered from serious mental health issues, was maintained on segregation whilst awaiting transfer to a psychiatric unit, despite increasing concerns that isolation was detrimental to his mental health[150].

[141] TRN0000100_0008 [226-229]
[142] TRN0000005_007 [27-35]
[143] First Witness Statement of Dr Rachel Bingham, §147, BHM000033_0056-0058; Dr Rachel Bingham, 14 March 2022, 50/12-18
[144] Dr Rachel Bingham, 14 March 2022, 50/13-25, 51/1-25 and 52/1-10
[145] First Witness Statement of Dr Rachel Bingham, §147 (b), BHM000033_0057
[146] Dr Rachel Bingham, 14 March 2022, 21/14-21
[147] Dr Rachel Bingham, 14 March 2022, 54/2-14
[148] First Witness Statement of Dr Rachel Bingham, §157, BHM000033_0062; Dr Rachel Bingham, 14 March 2022, 13/15-25 and 14/1-10
[149] First Witness Statement of Dr Rachel Bingham, §162, BHM000033_0064
[150] Dr Rachel Bingham, 14 March 2022, 52/11-25 and 53/1-25

Over-reach of Healthcare

6.26 The direct consequence of the absence of therapeutic methods and desensitisation was the abdication by healthcare staff of their protective duties and safeguarding function towards detained persons. There were various examples of healthcare staff failing to raise clinical objections to the use of force even where a detained person's clinical condition or risks contra-indicated the use or extent of force. Healthcare staff even took on a role of actively sanctioning and 'approving' the use of these coercive measures.

6.27 The use of force against D2159 (see §4.9 above) is a stark example of the failures in safeguarding by healthcare staff[151], who failed to raise clinical objections to the restraint of D2159, both prior to and during the intervention. RMN Chrissie Williams, who had advised custodial staff that D2159 needed to be moved due to clinical concerns over his welfare, confirmed that "*restraints may be used*"[152]. In her oral evidence, she claimed she had simply meant "*holding his hand*"[153] if needed and had not anticipated force would be used. She accepted that her words had amounted to a *de facto* approval of the use of force against D2159[154], which was outside of her clinical remit and that she ought to have clearly raised the obvious clinical contra-indications to force being used against D2159 at the outset.

6.28 Dr Bingham was critical of the failure to raise clinical concerns as to the use of force against D1914 in view of his serious cardiac condition[155]. Yet still more stark, Dr Oozeerally actively approved the use of force, providing a memorandum that he was "*happy for reasonable force to be used in order to facilitate the removal*"[156]. This was relied on by officers as a disclaimer in case D1914 died as a result of the extensive unlawful force used against him. In evidence Dr Oozeerally refused to accept that his words amounted to an endorsement of restraint[157], or that he should have identified D1914's vulnerabilities as contra-indicative to the use of force[158]. Even after D1914 suffered a clinical episode during the restraint, healthcare staff present failed to raise any clinical objections to its continuation.

7. Lack of accountability, oversight and institutional culture of impunity

7.1 The evidence made clear that the Home Office failed to provide robust oversight and accountability for immigration detention. There is no effective process within the Home Office for feeding back criticism made by others to those responsible such as managers of detention centres, individual decision makers, contractors, and healthcare. There is no effective process for learning or review even after legal rulings that identify unlawful practice and serious findings of Article 3 ECHR breaches in the detention context, or following inquest jury findings. The indifference of the Home Office to learn lessons, and effect

[151] First Witness Statement of Dr Rachel Bingham, §§139-141, BHM000033_0053-54

[152] CJS007001_0001

[153] Christine Williams, 10 March 2022, 107/17-19

[154] Christine Williams, 10 March 2022, 109/21-25, 110/1-25 and 111/1

[155] First Witness Statement of Dr Rachel Bingham, §145, BHM000033_0062

[156] CJS001160_0001

[157] Dr Husein Oozeerally, 11 March 2022, 131/1-12 and 135/12-20; see Dr Husein Oozeerally, Day 29 PM Live Stream (11 March 2022), 24:37-31:44

[158] Dr Bingham set out her clinical concerns about the use of force in this situation in evidence. See Dr Rachel Bingham, 14 March 2022, 48/1-17

substantive change, is borne out by its refusal to acknowledge the pattern of systemic concerns raised in previous exposés, independent reviews and reports from statutory and other independent bodies.

7.2 Various factors operated to prevent the abuse at Brook House from being exposed earlier: a toxic closed rank G4S staff culture, operational failings by G4S senior officials and in Home Office oversight, an ineffective and corrupted complaints system, and failures in oversight by the external monitoring bodies, IMB and HMIP. The evidence was clear that these bodies were not sufficiently robust in their structure or practices to identify the climate of abuse at Brook House. This was compounded by their lack of enforcement powers, with the Home Office persistently ignoring their recommendations.

7.3 The resistance of the closed IRC culture to transparency and accountability is illustrated by the fact that it has taken an Inquiry of this scale and authority in order to understand and investigate the true extent of such serious systemic failings, as well as the true extent and nature of abuse and mistreatment. Even now, and in the face of such extensive evidence, the institutional response from the Home Office and its contractors has been one of indifference and intransigence. Phil Riley, Director of Detention and Escorting Services, insisted in his evidence that the Home Office had taken "*every step we could take proportionately to deliver a safe environment"*[159]. The Home Office has failed to show any real concern or urgency arising from the evidence as to the total dysfunction in the Rule 34 and 35 safeguards, despite the prognosis of Dr Bromley, the PPG Medical Director, that these safeguards would continue to be breached. G4S did not have their contract terminated by Home Office; the contract was in fact extended and G4S itself withdrew its bid to renew the contract in 2020. Serco, another private contractor with its own history of failures in custodial care[160], has taken over running Brook House, with the same flawed arrangements and practices continuing.

7.4 The systemic conditions for mistreatment in the IRC environment persist. The findings of the IMB 2020 report into Brook House, which found the whole detained population was subject to inhumane treatment[161] (§2.9), identify the same continuing failures that operated in 2017. Medical Justice's most recent research, which includes casework at Brook House, confirms the ongoing dysfunction in detention and clinical safeguards.[162].

[159] Phil Riley, April 2022, 75/1-4

[160] There have been many examples, both in the UK and overseas. For example at Yarl's Wood IRC, run by Serco, they have included multiple accounts of sexual assault of detained women by guards in 2013 and the death of a detained woman in 2014.

[161] IMB (2021) *Annual Report of the Independent Monitoring Board at Brook House IRC for reporting year 1 January 2020 – 31 December 2020*, 8

[162] Medical Justice (2022) *Who's Paying the Price: The Human Cost of the Rwanda Scheme*

CONCLUSION

The evidence heard by the Inquiry has served to reinforce the position of Medical Justice that immigration detention should be phased out and, in the meantime, be subject to strict statutory criteria and a time limit to curtail its use and extent. This position is supported by a wide range of other independent organisations, statutory bodies[163] and parliamentary committees[164]. The need for change is all the more compelling in the current climate, where the detention release rate is at an all-time high, 82%[165], against a growing backlog of asylum cases and high asylum grant rate. The harm caused by detention, especially in this context, is known and preventable.

The Home Office's stated intention to increase detention capacity by 1,000 in 2023, along with the expansion into new forms of quasi detention in military barracks and other facilities and in the current deeply hostile political climate is therefore of major concern. Abandoning the primary recommendations of the last independent investigations by Stephen Shaw to reduce the numbers in immigration detention[166] and to purse alternatives to detention[167] is alarming. It seems clear that the use of immigration detention is only going to continue rising in circumstances where vulnerable persons continue to be wrongly detained and in ever increasing numbers pursuant to polices directly targeting asylum seekers such as the controversial Rwanda policy[168], the inhumane Manston Short-Term Holding Facility[169] and the reintroduction of the discredited[170] detained fast track appeals process[171]. In the absence of fundamental change and effective detention safeguards, enforcement imperatives and hostile government rhetoric will continue to sustain the key conditions in which abuse, mistreatment and racism have occurred and reoccurred in immigration detention.

[163] See Annex 1 to Witness Statement of Emma Ginn, BHM000041_0070-73

[164] Joint Committee on Human Rights, Immigration Detention: Sixteenth Report of Session 2017-19 and Home Affairs Committee, Fourteenth Report of Session 2017-19

[165] "National statistics: How many people are detained or returned?", *Home Office*, 24 November 2022

[166] Home Office (2016) *Review into the welfare in detention of vulnerable persons: A report to the Home Office by Stephen Shaw*

[167] Home Office (2018) *Assessment of government progress in implementing the report on the welfare in detention of vulnerable persons: A follow-up report to the Home Office by Stephen Shaw*

[168] See for example UNHCR (2022) *UNHCR Analysis of the Legality and Appropriateness of the Transfer of Asylum-Seekers under the UK-Rwanda arrangement*

[169] Statement from Home Affairs Committee Chair following visit to Manston - Committees - UK Parliament

[170] *The Lord Chancellor v Detention Action [2015] EWCA Civ 840* ruled the Fast Track system to be structurally unfair, unjust and ultra-vires

[171] Nationality and Borders Act 2022 s 27

Medical Justice

seeking basic rights for detainees