

# Government Response to the Public Inquiry into Brook House Immigration Removal Centre

March 2024

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Presented to Parliament by the Secretary of State for the Home Department by Command of His Majesty

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### Government Response to the Public Inquiry into Brook House Immigration Removal Centre (IRC)

- In November 2019, the then Home Secretary Dame Priti Patel announced in Parliament that a Prisons and Probation Ombudsman investigation into mistreatment at Brook House immigration removal centre (IRC) would be converted to a statutory inquiry under the Inquiries Act 2005. This inquiry, in which the Home Office was a core participant, was in response to an investigative current affairs documentary broadcast in September 2017, which included covert footage of abuse of detained people at Brook House IRC by a small number of contracted service provider staff. The inquiry was established on 5 November 2019, with two phases of hearings, concluding in April 2022. The inquiry report was published on 19 September 2023 and included 33 recommendations across 10 key issues of concern.
- 2. The aim of the inquiry was to establish the facts of what took place and ensure that lessons were learnt to prevent those events happening again. We expect the highest standards from all contracted service provider staff. The documentary footage was utterly shocking, and the Government has been clear from the outset that the sort of behaviour on display from some of those staff was totally unacceptable.
- 3. The Government has made significant reforms to immigration detention over the past few years in line with external reports and recommendations and is grateful to the Chair of the Brook House Inquiry (BHI), Kate Eves, for her review. We welcome this important contribution to ensuring the safety and welfare of those in detention. The Government has carefully considered and accepts the broad thrust of the recommendations, and this paper sets out the Government's response to the 10 key issues of concern raised in the report. In reflecting on the recommendations, we have sought to address concerns relating specifically to Brook House IRC but also the wider implications and lessons to be learnt across the entire removal estate.
- 4. The Home Office currently operates 7 IRCs (6 in England, 1 in Scotland), 4 residential short-term holding facilities (1 in Northern Ireland, 3 in England) and 1 pre-departure accommodation for families. All are operated under private contract. The Government wishes to highlight within this response, the substantial operational process and policy changes that have been implemented across the removal estate to enhance assurance and oversight of service provision. Further improvements have been made since the events of 2017 to uphold the welfare and dignity of those detained across the estate including strengthening safeguards, promoting a culture of transparency and improving the oversight of contractors' performance.
- 5. A cross-government working group, under the chairmanship of the Senior Civil Servant for Detention Services, has been considering the report and recommendations in detail and will continue to monitor the appropriateness of

and adherence to policy and operational guidance to ensure those involved in overseeing and running the estate remain cognisant of inquiry recommendations.

6. A summary of delivery so far and continuing progress according to each of the 10 themes is as follows:

### 6.1) Contract:

- 6.1.1 The Government is committed to addressing the key issues found in the report around the terms and monitoring of contracts, holding the most senior service provider managers to account as well as those delivering services within IRCs. From 2017, following the documentary, the Home Office has recognised deficiencies and significantly invested in the development of new contracts to improve service provision and bolster oversight thereof. These contracts require the implementation of an internal audit programme to monitor both processes within the IRC and compliance with Detention Centre (DC) Rules, Detention Services Operating Standards and Detention Services Orders (DSOs) as well as mandating self-reporting by contracted service providers. Key Performance Indicators (KPIs) relate to operating the required audit arrangements and submitting completed audits to the Home Office, including details of any non-compliance.
- 6.1.2 Two different Home Office teams operate in each IRC; Detention Services Compliance Teams are responsible for all on site contract monitoring. This includes ensuring that contracted service providers are fulfilling their contractual requirements and delivering against KPIs. The teams monitor the services provided, the treatment of detained persons and the condition of the establishment. Detention Engagement Teams (DETs) are responsible for interacting with those detained on behalf of casework teams and providing updates on case progression. In addition to this oversight and engagement, improvements are being made to the current Detention Services Operations compliance and assurance strategy for 2024 onwards to:
  - Define a robust staffing structure for locally embedded Home Office Compliance Teams and standardise compliance monitoring schedules,
  - Provide a clear methodology, ensuring a consistent approach to the monitoring of and adherence to contracts,
  - Strengthen consistency between IRCs by standardising processes, sharing best practice and providing a consistent approach across the detention estate with clear reporting and escalation processes.
- 6.1.3 As further support, Executive Oversight Boards (EOBs) are held quarterly between senior Home Office officials (from both the operational and commercial community) and senior executives and account management from IRC service providers. These boards offer the opportunity to escalate and conclude any issues raised by either party that cannot be resolved at an operational level.

6.1.4 These measures will give more stringent oversight and review opportunities to identify local and estate-wide trends. These findings will inform discussions at senior management level to ensure attention to and prioritisation of welfare standards is taken seriously and forms a fundamental part of contractual obligations.

## 6.2) Physical design:

- 6.2.1 The report comments particularly on poor room conditions at Brook House IRC and that activities and regime were undervalued. All rooms across the removal estate meet standards under Rule 15 (1) of the DC Rules 2001 and the Secretary of State must satisfy himself that, in every IRC, sufficient accommodation is provided for all detained persons. In relation specifically to rooms at Brook House, no room designed for only two individuals houses more than two and there are no plans to change this. Although rooms in some IRCs do hold more than two individuals, this only occurs where those rooms meet DC Rules criteria and are sufficiently sized. If additional rooms were considered in the future, then a rigorous assessment would be undertaken before any action is considered, including adherence to the Accommodation DSO which sets out standards for lighting, heating and ventilation.
- 6.2.2 Access to activities and regime are important factors built into new service contracts. All service contracts require adherence to DSOs including the mandatory provision of and regulated access to IT equipment and internet services. The Home Office has an ability to impose fines if these obligations are not met.

### 6.3) **People's safety and experience:**

6.3.1 A new staffing model has been developed to deliver a considerably healthier ratio of custodial staff per detained individual to nearly double what it was in 2017. The new model represents an increase in staffing numbers taking account of each IRC's requirements and layout, and incorporates the lessons learnt from external reports including the Shaw1 review (into the welfare in detention of vulnerable persons), His Majesty's Inspectorate of Prisons (HMIP) and Independent Monitoring Board (IMB) reports and the BHI report. It introduced changes to staffing patterns and requirements to deploy staff where they are most needed – supporting detained individuals in their journey through detention. One of the most significant changes affecting staffing levels is a shorter night state, when staffing requirements are reduced, limiting the amount of time a person can be locked in their room overnight to up to a maximum of 9 hours. This 9-hour maximum night state is now embedded.

<sup>&</sup>lt;sup>1</sup><u>Review into the welfare in detention of vulnerable persons - GOV.UK (www.gov.uk)</u>

6.3.2 The Government does not accept the recommendation that it should set a time limit on detention. A time limit would significantly impair the ability to remove those who have breached immigration laws and refused to leave the UK voluntarily. The Illegal Migration Act makes it clear that immigration detention must only be used for a period of time that is reasonably necessary, in the opinion of the Secretary of State, for the relevant immigration function to be carried out.

### 6.4) Safeguards for vulnerable individuals:

- 6.4.1 There are a number of safeguards underpinning detention decisions which are highlighted in this response. In June 2016 the Home Office introduced the Detention Gatekeeper who review the suitability of individuals for detention, with a clear focus on removability and vulnerability. In September 2016, the adults at risk in immigration detention (AaR) policy was implemented, setting out that vulnerable people should be detained only when the immigration factors outweigh the risk of harm to the individual in any given case. These measures were still bedding in during the relevant period and are now considered business as usual and fully integrated into detention decision making processes. The Home Office is clear that decisions to detain, and subsequent decisions to maintain or release must be made in accordance with detention policy, including the AaR policy.
- 6.4.2 The Home Office is currently undertaking a review of the AaR policy and DC Rules 34 and 35. DC Rule 34 requires that every detained individual be given a physical and mental examination within 24 hours of admission to an IRC, provided they consent to this, and DC Rule 35 ensures that particularly vulnerable detained individuals are brought to the attention of those with direct responsibility for authorising, maintaining and reviewing detention.
- 6.4.3 Careful consideration has been given to training linked to Rule 34 and Rule 35 of the DC Rules 2001. NHS England is developing interim clinical guidance to support GPs undertaking Rule 35 assessments and reports. Once the Rule 34 and 35 and AaR policies have been reviewed, NHS England will commission training to further support clinicians' understanding of their responsibilities under the revised rules. Information is also included within Initial Training Courses (ITCs) to promote awareness amongst all new contracted service provider staff.

### 6.5) **Restrictions on detained people:**

6.5.1 The Home Office has published an interim DSO to provide staff with further clarity on the use of Rule 40 (Removal from Association) and Rule 42 (Temporary Confinement) of the Detention Centre Rules 2001. This operational guidance establishes who can authorise use of Rule 40 and Rule 42 and the circumstances when this is appropriate. A substantive

review of the DSO is being undertaken which will also consider assurance mechanisms and updated training for staff and, once in place, compliance with the DSO will be audited. Appropriate detail from the updated DSO will form part of ITCs.

6.5.2 The multipurpose use of Eden Wing at Brook House, and any potential risks associated with co-location of vulnerable individuals with those who may have been removed from association, is under consideration. Any learning will be applied across the removal estate.

#### 6.6) Use of force:

- 6.6.1 Where people in detention refuse to comply with a lawful order, it may be deemed necessary to use reasonable force to affect a removal from the UK and ensure security, order and safety is maintained whilst detained. The use of force whilst in detention for non-compliance can only be justifiable when all other reasonable efforts have been made, or in exceptional circumstances, when they are deemed necessary as a matter of urgency. Force must only be used as a last resort, and for the shortest possible time after a thorough risk assessment considering each individual's personal circumstances.
- 6.6.2 The Home Office takes this responsibility extremely seriously and reviews all reports resulting from a use of force in detention and escorting to ensure that techniques are used proportionately, are justified, are only used for the minimum period required, and that staff act within their lawful boundaries as custody officers.
- 6.6.3 The Home Office has been working closely with HM Prison and Probation Service (HMPPS), NHS England and the Department of Health and Social Care (DHSC) to ensure expert input into consideration of these recommendations. The use of force is an unfortunate but necessary tool to maintain the safety and security of both those detained and staff, but we note the report findings into the use of dangerous techniques. The Home Office has communicated to all IRC and contracted service provider staff that techniques involving hand cuffing behind backs whilst seated is not permitted. A new DSO in relation to use of force is being developed in consultation with experts, and training around use of force reviews is under development. This will go hand in hand with an overhaul of existing assurance processes, including the introduction of an escalation system to better facilitate the communication of concerns.

### 6.7) Healthcare:

6.7.1 An update to the DSO in relation to refusing food and fluid has been published. It covers the requirement to link food and fluid refusal with consideration of the Rule 35 process and whether a detained person should be defined as an adult at risk. Any decisions by healthcare providers

are recorded along with the numbers of instances and reasons. This information is monitored by the Home Office and reviewed to assist in identification of trends and appropriate action.

- 6.7.2 Within IRCs, NHS England are responsible for commissioning a healthcare service consummate to that which is available within the community. Although fit to fly letters are a medico legal practice and outside of the responsibility of NHS England where a clinician has concerns in relation to an individual's detention or fitness to fly, they will, in line with safeguarding responsibilities ensure that this is shared, where appropriate, with the Home Office to support decision making.
- 6.7.3 The Home Office and DHSC are considering the policy around detained people with mental ill health as part of a wider piece of work around vulnerable adults and, along with NHS England, are scoping out the requirements for any further work.

#### 6.8) **Staffing and culture:**

- 6.8.1 The report findings in relation to contracted service provider staff behaviour and culture were shocking and unacceptable. Significant changes have been implemented to better define operational staffing levels, introduce accredited training, a code of conduct, and a mandatory staff engagement strategy. The Government is particularly mindful of the findings that the negative culture at Brook House during the time of the documentary was endemic and enabled by senior managers. The Home Office is working to ensure that all safeguards and monitoring of conduct apply to all staff, including senior leadership.
- 6.8.2 The ITC for all new contracted service provider staff in IRCs is undergoing a full review to ensure understanding of fundamental subjects including AaR, mental health awareness, racial awareness and safeguarding children. There will also be a mentorship phase following completion of initial training and annual refresher training to ensure new recruits are effectively supported. These are contractual obligations that are also set out in the contract and certification DSO.
- 6.8.3 The DET teams are being expanded, with further recruitment underway to support the Home Office's commitment to improving the access of detained individuals to Home Office staff. DET staff are regularly present and visible within the IRCs, using face-to-face interaction to build relationships with those in detention and help focus them towards return, utilising available incentives such as the Voluntary Returns Scheme and providing an important on-site link between people in detention and their case working teams. Being based at the centres, engaging with those in detention and on-site healthcare providers and contracted service providers, DETs work to identify and manage any vulnerability issues at the earliest opportunity.

6.8.4 Contract requirements across IRC contracted service providers are being reviewed to provide a policy on safe staffing levels and appropriate mitigations where staff capacity is temporarily an issue.

### 6.9) **Complaints and whistleblowing:**

- 6.9.1 A comprehensive review into complaints, including medical complaints, and whistle blowing processes is being undertaken. This has involved a review of the existing DSOs and improving the visibility of communications about and accessibility to complaints processes within every IRC. Engagement with residents themselves, as well as with the IMB and Prisons and Probation Ombudsman (PPO), is also being undertaken to obtain feedback on the existing complaints process. The DSOs will be updated once the review is complete.
- 6.9.2 The Home Office Professional Standards Unit (PSU) has been closely involved in the Government's review of the report. Many of the recommendations relating to the work of the PSU are already part of its standard operating procedures (SOPs) and those that are not will be incorporated. Training has been updated to reflect BHI findings, highlighting the nature of immigration removal centres and any obstacles that detained people may face in making complaints. The PSU has also sought expert training in interviewing vulnerable witnesses and has an embedded officer with expertise in the use of force and assessing reasonableness of force.
- 6.9.3 Whilst the seniority of the Head of the PSU will not be changed, the Government is confident that the PSU operates within Advisory Conciliation and Arbitration Service (ACAS) Code of Practice on disciplinary procedures requiring fairness and transparency in workplace investigations. Should any complainant be dissatisfied with the outcome of an investigation, there are well communicated routes for escalation or redress outside the Home Office via the PPO.

### 6.10) Inspection and monitoring:

- 6.10.1 The Home Office has considered its reliance on external scrutiny organisations and the effectiveness of existing internal inspection mechanisms.
- 6.10.2 The report highlighted the lack of statutory status for the National Chair and Management Board of the IMBs. In the Prisons Strategy White Paper (2021), the Ministry of Justice (MoJ) committed to pursue legislative reform that will provide the relevant Arm's Length Bodies, including the IMBs, with the statutory framework needed to undertake scrutiny activity as effectively as possible. The MoJ intend to legislate as soon as Parliamentary time allows.

- 7. In providing this response, the Government wishes to make clear that our reforms to detention are not finished, with more still to be done. Although immense progress has been made (including progress before the inquiry published the report) and should be acknowledged, the Government is committed to learning sincerely from the past and continuing to drive improvement.
- 8. Separate to this response, evaluation undertaken by Home Office Analysis and Insight (HOAI) indicated that the AaR policy has been a successful tool in protecting those people with the most severe vulnerabilities from long stays in detention, and that staff became better over time at identifying and responding to changing vulnerabilities. Taken together with the pre-detention processes involving the Detention Gatekeeper, and the processes for assessing vulnerability in detention, the findings suggest that the current policies are an effective way of safeguarding vulnerable adults. Whilst an internal Home Office review, HOAI received independent oversight and advice from the Stephen Shaw chaired Shaw Analytical Advisory Panel (SAAP).
- 9. Detention is and will remain a fundamental element of the immigration system. The Government is committed to an immigration system that works in Britain's national interest and commands the confidence of the British people. Coming to the United Kingdom to work, study or visit is a privilege, not an unqualified right. Accordingly, the Government expects anyone who comes to the UK to comply with their visa conditions and, if they do not, to return home voluntarily at the first opportunity. Detention is used to effect the removal of those without permission to remain and depriving someone of their liberty will always be subject to careful consideration and scrutiny and will take account of individual circumstances. It is vital that the system is not only efficient and effective but also treats those within it with dignity and respect at all times. It must also take account of the vulnerability of those detained.
- 10. The Government is reassured by the HOAI findings with SAAP oversight and is confident the measures taken so far, including those in response to the Brook House Inquiry have gone a long way to addressing many of the key concerns raised. We will continue to reflect on the findings from the inquiry, ensuring that they, along with full consideration of our public sector equality duty, are fully embedded into the development and implementation of new and emerging policy initiatives.

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