

## **Home Office in major U turn agrees to Article 3-compliant investigation by PPO into abuse at Brook House IRC**

**Following legal proceedings the Home Office have backed down and agreed to the appointment of the Prisons and Probation Ombudsman (PPO) to undertake a bespoke and independent Article 3 ECHR-compliant investigation into abuse of detainees at Brook House Immigration Removal Centre (IRC) that was exposed by a BBC Panorama documentary in September 2017.**

The decision to order an independent investigation into abuse at Brook House IRC represents a major U-turn by the Home Office and came about following a legal challenge by two men detained at Brook House that was due to be heard for final hearing in the High Court on 17 October 2018.

The Judicial Review proceedings were brought by MA and BB, who featured prominently on a documentary by BBC Panorama, "Undercover: Britain's Immigration Secrets", broadcast on 4 September 2017. The documentary followed an undercover detention officer secretly filming inside the centre on behalf of the BBC. The footage revealed extensive physical and verbal abuse of detainees by officers. Most shockingly, it showed one officer strangling MA and threatening to put him "to sleep" before detention and healthcare staff conspired to cover it up. MA was a young Egyptian asylum seeker with severe mental health problems who was supposed to be on constant watch at the time because of suicide risk.

The Home Office contract-out the running of Brook House IRC to G4S, the private security firm with a long history of accusations of abuse of those in their care.<sup>1</sup> The Home Office renewed G4S's contract to run Brook House in May 2018 for a further two years despite on-going investigations into the mistreatment and abuse.

In the wake of the documentary, MA and BB requested that the Home Office institute an independent inquiry to investigate the credible evidence inhuman and degrading treatment in breach of Article 3 of the European Convention on Human Rights (ECHR). The detainees' case was that a review was needed of the systemic and institutional failings of the Home Office and G4S's running of detention centres as well as the indications of racism, and a cultural indifference to human suffering that allowed such abuse of detainees and their welfare to be placed at such risk. They called for a thorough, independent and effective investigation of the abuse that occurred at Brook House IRC, and how existing monitoring mechanisms wholly failed to identify the mistreatment that was taking place.

The Home Office in response repeatedly refused to initiate an independent inquiry, claiming that the current mechanisms in place were sufficient to meet their duties under Article 3. It is a major concern that some 12 months after the Panorama documentary, no officer is yet to be charged for any criminal offence.

Judicial Review proceedings were brought by MA and BB against the Home Office for their failure to institute an Article 3-compliant inquiry. Permission to proceed with the claim was granted by the High Court at a hearing on 22 May 2018 and a final hearing was listed for 17-18 October. The

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<sup>1</sup> <https://www.bbc.co.uk/news/uk-england-kent-42649243>  
<https://www.independent.co.uk/news/uk/politics/g4s-hmp-birmingham-prison-private-security-contract-scandal-controversies-a8498956.html>

Equality and Human Rights Commission (EHRC), the UK's statutory body set up to monitor human rights and equality compliance, were granted permission to intervene after expressing their own concerns that the Home Office were not acting in compliance with their duties under Article 3.

The Home Office vigorously defended their position throughout the proceedings. However, less than four weeks before the final hearing, in a major U-turn, the Home Office confirmed that they had reversed their position and that a request had been made to the PPO to undertake "a dedicated bespoke independent Article 3 compliant investigation". This will be the first investigation of its type into immigration detention for over 13 years.

The Judicial Review proceedings have been adjourned until the end of November whilst decisions are taken on what the investigation will cover, what powers the PPO will have (e.g. to compel witnesses, to secure access to document) and the involvement of the victims of the Brook House abuse. Both MA and BB have repeatedly urged the Home Office to ensure that this investigation is meaningful and effective, with public, oral hearings, proper questioning of witnesses, and substantive involvement for victims. Without such measures, the victims and the wider public will be doubly failed: by the abuse that occurred, and the inadequacy of the Home Office's response.

There have been a number of previous scandals like this, including those initiated by whistleblowers with secret cameras, revealing institutionalised abuse at a high level. Yet there has never been an inquiry under the Inquiries Act 2005, nor any with oral evidence and cross-examination. If the government is, as it says, genuinely interested in getting to the bottom of these matters, and what is going wrong in the immigration detention estate, then now is the time to have that inquiry, and to ensure that it is meaningful and effective.

Lewis Kett, a Public Law Solicitor at Duncan Lewis Solicitors who represented MA, stated as follows:

*"Our client was suicidal, vulnerable and helpless. He was pinned down, strangled and degraded by officers who were supposed to be responsible for his care. They conspired to cover it up, obviously thinking that the scarce oversight of their work meant it would never come out. Only the brave decisions of an undercover officer allowed this to be exposed. We obviously welcome the Home Office's concession that an independent Article 3-compliant investigation is now needed but the government need to ensure that the PPO are given the powers they need to properly get to the bottom of why this happened and how to ensure it will never happen again.*

Joanna Thomson, a Partner and Solicitor at Deighton Pierce Glynn (DPG) Solicitors, who represented BB, had the following to say:

*"Panorama revealed shocking deliberate abuse of detainees by detention staff. That was probably only the tip of the ice berg. Staff were shown bragging about how they mistreated vulnerable detainees and how they cover up the evidence. It is shameful that it has taken the government over a year to concede that this investigation is needed and it is imperative that the Home Office now acts quickly to give the PPO the powers needed to make this investigation effective."*

James Wilson, Director of Gatwick Detainees Welfare Group (GDWG), a charity that visits and supports detainees at Brook House, said as follows:

*“We greatly welcome the announcement of this investigation. We hope that this inquiry provides a thorough exploration of the circumstances that led to the horrific scenes captured by Panorama. It is vital, too, that this process examines the widespread and serious structural failings of the immigration detention system in the UK as a whole, not least the fundamental injustice of indefinite detention itself.”*

MA was represented by Lewis Kett and Nicholas Hughes of Duncan Lewis Solicitors. They instructed Stephanie Harrison QC of Garden Court Chambers and Alex Goodman of Landmark Chambers.

BB was represented by Joanna Thomson and Mark Hylands of DPG Solicitors. They instructed Nick Armstrong of Matrix Chambers and Jesse Nicholls of Doughty Street Chambers.