

## **Statutory public inquiry finds damning evidence of widespread abuse and mistreatment of detained people in immigration detention**

Last week on Tuesday 19 September 2023, the Brook House Inquiry published its long-awaited report on immigration detention. The Inquiry was the first of its kind – the maiden statutory public inquiry into the reality of life for individuals detained in immigration detention centres in the UK. Its key feature which distinguished it from previous more novel investigations was the Inquiry’s wide-ranging evidential powers – without which the Inquiry would not have been able to uncover the extent and gravity of mistreatment occurring within the UK’s immigration detention estate.

In particular, as a result of its statutory nature, the Inquiry had expansive powers to compel individuals and organisations to hand over incriminating evidence and to attend the Inquiry’s public hearings to be questioned about their role in perpetrating and covering up abuse, within what many consider to be the UK’s inherently inhumane and degrading system of immigration detention. Those evidential powers were particularly important given the circumstances from which the Inquiry arose, including widespread failures by staff to report abuse, mistreatment and wrongdoing which they witnessed – with more blatant examples including staff falsifying records so as to cover up wrongdoing perpetrated against vulnerable individuals detained at Brook House.

### **Background**

The BBC Panorama documentary “*Undercover: Britain’s Immigration Secrets*” broadcast in September 2017 exposed racism, physical assaults and shocking abuse of vulnerable detained people by officers at Brook House. The footage showed one officer strangling a detainee and threatening to put him “to sleep” and detention and healthcare staff conspiring to cover it up. The detained individual was a young asylum seeker with severe mental health problems whom officers were supposed to be watching over because of a high risk of suicide and self-harm. In other footage a control and restraint trainer was seen teaching officers to use racist language, to assault detained individuals and to “*scrub the CCTV*” so as to get away with it.

Whilst the Home Office was quick to condemn the mistreatment shown on the BBC’s Panorama documentary, it nevertheless greatly resisted the formation of an independent public inquiry to investigate and report on the circumstances of that mistreatment. Ultimately, it took two formerly detained individuals who appeared on the Panorama documentary to bring a successful legal claim against the Home Secretary, to force the Government to announce the Brook House Inquiry on 5 November 2019. One of the detained people involved in those initial legal proceedings was DPG’s client, D687. Without these proceedings, in which DPG was instructed, it is likely that the reality of what occurred to him and others at Brook House never would have been brought to light.

## Current Context

The Inquiry's report comes at a time when the Government is planning to increase its use of immigration detention in the UK.

On 20 July 2023, the Illegal Migration Act 2023 was given Royal Assent, granting the Home Secretary expansive new powers to detain more individuals for an indefinite period in immigration detention centres across the UK. Less than two months later and prior to the Act's powers coming into effect, the UK's maiden statutory public inquiry into immigration detention has found "*serious systemic failures, indicating a wholesale breakdown in the system of safeguards designed to protect vulnerable detained people*" and has concluded that the UK needs to introduce a statutory 28 day time limit on immigration detention, in light of the harm it inherently causes people.

## Brook House Inquiry

The Brook House Inquiry was tasked by the Home Secretary with investigating and reporting on incidents of mistreatment occurring within a very limited five-month period of time (April – August 2017). Having been established in November 2019, investigations continued over the course of the following two years leading up to the Inquiry having its first evidential public hearings in November 2021. Those public hearings, split over two phases, concluded in April 2022 – since when the Inquiry team has been considering the evidence and submissions made to it, ahead of publishing their thorough findings on 19 September 2023.

## **Scale of the Problem**

Since the BBC's Panorama documentary aired in September 2017, the Home Office and G4S both sought to portray the mistreatment of detained people depicted at Brook House as being the consequences of "*a few bad apples*" – a narrative which the Inquiry has now expressly rejected – in terms of the scale of the problem, and the number of individuals involved in perpetrating that wrongdoing.

With her report, the Chair concludes that "*the Inquiry's work has revealed that abuse within Brook House was even more widespread than was shown in the Panorama programme.*" She stated, "*I found 19 incidents in which there was credible evidence of acts or omissions that were capable of amounting to mistreatment "contrary to Article 3" of the European Convention on Human Rights... The relevant period of this Inquiry is relatively short (five months). It is therefore of significant concern that, within a limited time frame, I identified 19 such incidents.*"

The Inquiry's conclusions about the worrying prevalence of mistreatment of detained people mirrors those concerns raised by the G4S whistleblower in his oral evidence to the Inquiry. He told the Inquiry, "*You know, to be honest, it's not the things I saw whilst secretly filming undercover which trouble me most, because at least I filmed it so the world can see it. But it's the stuff that I witnessed before I started wearing secret cameras. ... that's the hardest stuff, because those officers have gotten away with it and it seems G4S and the Home Office are only being held accountable for the months of April to August...*"

In light of the Inquiry's findings, it is unsurprising that the Chair concluded: "*I have rejected the narrative portrayed by both the Home Office and G4S in their evidence,*

*that events at Brook House were primarily the result of the behaviour of a small minority of staff. The evidence produced in the course of the Inquiry does not support this, and attempts to characterise the events in this way both minimise what occurred and seek to distance the Home Office and G4S from their responsibility for the prevailing culture. Many of the issues I have identified relate to a failure to follow the rules and safeguards that already exist in recognition of the risks associated with immigration detention. The troubling tendency to pay only superficial attention to the rules contributed to the toxic environment that existed at Brook House.”*

## **The Inquiry’s Findings**

### D687 Specific Findings

As described above, the Inquiry found 19 incidents where it considered there existed credible evidence that detained people suffered mistreatment contrary to Article 3 ECHR. One of those findings related to DPG’s formerly detained Core Participant client D687.

In terms of D687, the Inquiry made robust findings – completely at odds with those made by the Home Office following their own internal investigation of D687’s mistreatment at Brook House, which dismissed his experiences and upheld the accounts of, now disgraced, Brook House staff members. The Inquiry also made significant findings criticising the Home Office’s PSU investigations process, including with regards to its lack of perceived independence.

In summary, the Inquiry found the D687 was subject to inhuman and degrading treatment by staff in May 2017 at Brook House. In relation to an incident on 13 May 2017, the Inquiry concluded that:

- force was used inappropriately and unnecessarily against D687 when he was attempting to self-harm;
- disproportionate force, including pain, was unnecessarily inflicted upon him during the use of force; and
- that staff made inappropriate and humiliating comments towards D687 in the course of that use of force, as he was attempting to take his own life – relating to a comment by a detention custody manager to D687, in which he told D687 that if he did hang himself, **“Well, we’ll wait for a minute until you pass out and then we’ll cut you down.”**

The Inquiry also considered that significant clinical failures had contributed to D687’s vulnerability and the mistreatment that he suffered on 13 May 2017, including a failure by the onsite GP at Brook House to complete the required safeguarding reports to inform the Home Office of D687’s deteriorating mental health, so that his ongoing detention could be reviewed. The Inquiry found:

- *“By the time D687 was involved in the self-harm incident on 13 May 2017, he had been presenting with deteriorating mental health symptoms for almost three months. D687 described multiple incidents in which he expressed suicidal ideation, having given up on life, having lost hope and feeling worthless, which all contributed to his self-harming in that incident. Dr Oozeerally’s failures –*

*particularly his failure to report D687's mental health deterioration to the Home Office – meant that D687's mental state and the incident of self-harm were not factored in to the Home Office's decision regarding his transfer to The Verne. Nor was the Home Office given the opportunity to consider this information in a review of his detention. He remained in detention, where he deteriorated, and was then subject to the use of force.”*

- *“D687 disclosed thoughts of self-harm in the days preceding the incident on 13 May 2017. He missed three scheduled appointments with the mental health team between 5 May 2017 and 13 May 2017, and there were no apparent attempts to follow these up with D687, despite him being subject to an ACDT at the time. In my opinion, he was left more vulnerable as a result. ...”*
- *“I considered D687's likely state of mind at the time of the incident and the impact that these events would therefore have had on him. D687 was subject to an ACDT, was expressing his intention to take his own life and had taken steps to prepare to do so. In my view, he was therefore more vulnerable to mistreatment. I accept that Mr Donnelly's comment added to his feelings of worthlessness and that he was frightened by the restraint. I consider that D687 probably felt humiliated both by his restraint and by the comment made by Mr Donnelly in these circumstances. I also accept D687's evidence to the Inquiry that he experienced intense pain: a PIT was used, he could be heard complaining about pain to his arms and he was later diagnosed with bruised ribs. In my view, there is credible evidence that D687 was treated in a way that is capable of amounting to inhuman and degrading treatment.”*

### Generic Findings

Although the Inquiry's report focused on individual incidents of inhuman and degrading treatment of people administratively detained at an immigration detention centre situated next to Gatwick Airport in London, the evidence the Inquiry heard indicates such mistreatment could be occurring across the UK's immigration detention estate.

Ultimately, the Inquiry identified extensive failures by the Home Office and its private contractors at Brook House, which it considered increased the risk of individuals in detention suffering mistreatment. These included issues, inadequacies and/or failures within the following areas: the contract to run Brook House; the physical design and environment; detained people's safety and experience; safeguards for vulnerable individuals; restrictions on detained people; use of force; healthcare; staffing and culture; complaints and whistleblowing; and inspection and monitoring.

The specific failures are too numerous to summarise here, but we have identified below some findings we consider to be particularly significant, in addition to the concerns already referenced regarding the misuse of force on detained people:

- **Contractual Monitoring:** In the context of Brook House, the contract largely relied on G4S to self-report any failures – something which they were disincentives from doing, given that it would trigger penalties and reduced profitability. Ultimately, as a result of inadequate contractual monitoring by the Home Office, G4S did not face financial sanctions in circumstances where

robust monitoring would likely have revealed failures and, critically, opportunities to improve safety were also missed. This raises significant concerns about the inadequacy of scrutiny and lack of accountability of corporations within the context of privatised areas of the State. Whilst this is concerning from a public purse perspective, it is more troubling that this lack of oversight was so instrumental in facilitating the abuse and mistreatment of people detained at Brook House. The significance of this failure is not disputed by the Home Office, who accepted that it did not sufficiently resource its staff to enable more effective monitoring of the contract. Mr Philip Riley, Director of Detention and Escorting Services (DES) within the Home Office, told the Inquiry: ***“if we had adequately resourced our management of the contract, then I don’t think that the abuse would have happened”***.

- **Toxic Culture:** The Inquiry found a toxic culture existed at Brook House in 2017 and was concerned that those cultural issues may remain there now. In describing cultural issues, the Inquiry report notes: *“Racist language and actions, and a culture of bullying, bravado and ‘macho’ attitudes, underpinned a number of the events discussed in this report... I observed explicit racism and tolerance of racism by others, along with a desire by some staff to ‘fit in’ and to appear ‘tough’ or masculine by adopting the aggressive culture of some existing staff”. These aspects of staff behaviour cannot be separated from cultural issues. Prisonisation, dehumanisation, the ‘us and them’ attitude exhibited by many and the fundamental failure to understand the power imbalance all fed into and also fed off attitudes of racism and toxic bravado. ...“I have found considerable evidence of racist beliefs and abuse by staff... [and] that Brook House appears to have been a breeding ground for racist views in the relevant period and was perceived as an unacceptable environment in which to express them”*.
- **Healthcare:** The Inquiry received evidence from formerly detained people that doctors and nurses were dismissive and exhibited a lack of care or empathy. A view sometimes prevailed that a patient was exaggerating their symptoms, conditions or past history for the purposes of furthering their immigration case. The failure to recognise challenging behaviours as a manifestation of mental ill health rather than wilful disobedience is a theme that runs throughout this Report.
- **Safeguards for Vulnerable People:** Overall, the Inquiry concluded in damning terms that there were “serious systemic failures, indicating a wholesale breakdown in the system of safeguards designed to protect vulnerable detained people”. The Inquiry found these failures were ongoing, giving rise to grave concerns about the ongoing risks that vulnerable detained people are being detained in circumstances where they ought not to be.
- **Misuse of Segregation:** The Inquiry found evidence of widespread misunderstanding around the rules on who could authorise segregation, along with its inappropriate use as a punishment, for administrative convenience and to manage detained people with mental ill-health. The Inquiry’s criticism of this arises in the context of evidence associating segregation of detained people with them experiencing worsening symptoms of mental ill health, and in the

case of already vulnerable individuals can exacerbate pre-existing conditions such as post-traumatic stress disorder (PTSD). Suicidal thoughts and the risks of acting on them can also increase.

The Inquiry report describes how the issues identified by the Inquiry had already been raised with the Home Office – in some cases, repeatedly. The Chair referred to the repeated failures to learn lessons and to act on recommendations made, as inexcusable. In what should be viewed as a challenge to the Home Secretary, the Inquiry Chair concluded her report in challenging terms, stating: *“I return to the former Home Secretary’s wish to learn lessons. On this occasion, lessons must be learned and more than mere lip service paid to my recommendations.”*

One such recommendation made previously, but now endorsed in committed terms by the Inquiry Chair, is that the UK introduce a 28 day time limit on the use of immigration detention. The Inquiry’s adoption of this recommendation is striking in the current context, given the Government’s current plans to expand its use of immigration detention.

Mark Hylands, solicitor at DPG, said:

*“This is the first time immigration detention has been the subject of proper scrutiny. That scrutiny was resisted at every turn. Our client and another formerly detained person had to sue the Home Secretary to get this Inquiry. Once it started, the Home Office and G4S continued to resist it at every turn. It is now clear why: the evidence is breath-taking in its extent and depth. Our clients have now been exonerated; the Home Office and G4S have been condemned. Immigration detention needs to be overhauled and, as the Chair has said, heavily limited. In contrast, the Government is currently planning a dangerous expansion of its use by way of the Illegal Migration Act 2023. The Chair’s condemnation of the Home Office’s repeated failure to learn lessons and act upon previous recommendations made to them, is striking. It is hoped such failures do not persist in light of this important report.”*

## **Next Steps**

The Home Office now has 6 months from the date of the Inquiry’s report, to publish a detailed plan outlining how it plans to respond to the issues raised by the Inquiry. The Home Affairs Select Committee and Joint Committee on Human Rights will then take up its role of scrutinising that plan and its implementation going forward.

In the meantime, the Inquiry’s report is a vital tool for lawyers representing individuals detained by the Home Office under immigration powers. If your organisation is interested in learning more about the Inquiry’s findings and how they can be used to improve the lives of detained individuals, feel free to contact DPG solicitors.

Deighton Pierce Glynn [including Joanna Thomson (retired), [Mark Hylands](#), [Clare Hayes](#), [Unkha Banda](#), [Ralitsa Peykova](#), [Ahmed Ali](#)] acted for two Core Participants in the Inquiry, including formerly detained person D687 and [Gatwick Detainees Welfare Group \(GDWG\)](#), a charity which provides practical and emotional support for people detained at Brook House and Tinsley House IRCs. We also acted for several Inquiry witnesses, including NGOs [BID](#), [Detention Action](#) and [INQUEST](#), and other individuals

who were detained at Brook House in 2017 who gave evidence to the Inquiry about their experiences of detention. DPG instructed [Nick Armstrong KC](#) and [Jesse Nicholls](#) of Matrix Chambers, together with [Una Morris](#) of Garden Court Chambers.