

Statement for the Defendant

Philomena Creffield

Second witness statement

13 April 2021

Exhibit [PC/2]

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

CO/312/2021, CO/329/2021,
CO/354/2021, CO/397/2021,
CO/402/2021

In the matter of an application for Judicial Review

BETWEEN

THE QUEEN on the application of

- (1) [initials]
- (2) [initials]
- (3) [initials]
- (4) [initials]
- (5) [initials]

(6) and-

Claimants

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT

Defendant

WITNESS STATEMENT OF PHILOMENA CREFFIELD

I, Philomena Creffield OBE, of the Home Office, 2 Marsham Street, London, will say as follows:

1. I make this witness statement on behalf of the Defendant in rebuttal of certain points made in the witness statements of [names] dated 27 March 2021, all served on 30 March 2021. References herein to paragraphs are to paragraphs of those respective statements, save where the context otherwise requires. This statement does not attempt to address each and every point made in the witness statements. Given the limited time available, my statement is intended to address, in a proportionate way, what I consider to be the salient points. Therefore, the absence of comment in my statement to any particular aspect of the claimants' evidence is not to be taken as acceptance of that point.
2. This is my second statement in these proceedings, my first being dated 18 March 2021. My position and responsibilities remain the same as in my first statement. Insofar as the contents of this statement are within my own personal knowledge, they are true, otherwise they are true to the best of my knowledge, information and belief. Where I refer to information from other sources, such as Home Office records and correspondence and information provided to me by colleagues at the Home Office and other stakeholders, they are true to the best of my knowledge and belief.

Third Witness Statement of [name]

3. Paragraphs 5 states that the Defendant has understated the "extent of the failure" in the Suitability Criteria in identifying those who should not be accommodated at Napier. Paragraph 10 of my first witness statement accepts that individuals who should not have been accommodated at Napier were. But it would be wrong to suggest that the suitability criteria are not, generally, applied with care. That is illustrated by the fact that I have been informed by colleagues that in March the Home Office reviewed the files of 416 individuals in order to identify 80 cases meeting the suitability criteria. Since Napier became operational, I am told that only 20% - 35% of all single males, over the age of eighteen, who have been in hotels and have been in the UK for fourteen days, were deemed as suitable to be accommodated at Napier. The process

of identifying people has been by Clearsprings ("CRH") sending lists to the Home Office which are checked against the criteria by the Home Office Asylum Support team. We have now requested lists from other providers.

4. Paragraph 6 references 80 individuals with underlying vulnerabilities who were transferred after solicitors threatened or issued judicial review. At paragraphs 9 and 28, [name] refers to an anonymous individual [initials] by way of an example of the Home Office failing to identify vulnerability. Without further information on [initials], I cannot address this particular case. Without checking the records of each individual who has been transferred out of Napier, it is not possible to identify how many were transferred on the basis of representations received via solicitors and how many were transferred following internal processes. However, I can confirm that individuals have been transferred out of Napier following internal processes.
5. Paragraph 20 makes reference to an alleged incident involving individuals expressing suicidal ideation. This is also referenced in paragraph 32 of the witness statement of [name] [[number] of the trial bundle] where [he/she] states that, on 15 January 2021, 22 people were being held in a building inside the barracks on suicide watch by a security guard and that the only medical care they received was sleeping tablets. I note that [name] does not identify who told [him/her] this and, following checks I confirm that this is untrue. During the course of my checks, I was informed that around the 15th January an individual was on suicide watch with a security guard stationed outside his block to provide assistance. The resident also received an hourly welfare check.

Third Witness Statement of [initials]

6. [initials]'s third witness statement responds to [name] witness statement dated 18 March 2021, specifically in relation to the use of the games room as an isolation facility. The Home Office has consequently contacted NACCS and CRH for further clarification on this.

7. At paragraph 8 of [his/her] third statement, [initials] states that it is incorrect that there were 21 beds in the games room and that there were only 7 or 8 beds and only 7-8 individuals who were “detained in the room”. NACCs have confirmed that, on 14 January 2021, when the games room was set up as an isolation facility, it was divided into two separate areas with 11 beds being placed in each area (i.e. a total of 22 beds) although I understand that the Home Office was previously informed that there were 21 beds. CRH has confirmed that, on 15 January, five residents were moved from their dormitories into the games room. A further two residents were moved to the games room on 17 January 2021. They stayed in the games room until 26 January, which was the night of the fire at Napier. The seven residents went to different blocks and did not return to the games room.
8. Residents were not detained in the room. The main entrance remained unlocked. The room also has two fire doors which have “push bars” and could be readily opened. As stated in paragraph 16 of [name] witness statement and reiterated by CRH, residents inside the games room were encouraged to use the area of grass and small gravel football pitch outside the main door for exercise and fresh air. Residents were expected to follow the Covid-19 regulations in force in England at the time.
9. A security guard was stationed outside to ensure that all individuals’ needs were met and no unauthorised individuals were visiting them. This security guard also assisted residents with any requirements and was used as a communication point to alert any housing officers of any issues or needs on the residents’ part. Two security guards were positioned inside the block over a twenty-four hour period, with one in station at any given point.
10. At Paragraphs 5 – 7 of his third statement, [initials] addresses the toilet and shower facilities. I note that [initials] now accepts that there were toilet facilities inside the building, as [name] pointed out in his first statement. He also states that there were three toilets and only two sinks which were on the outside of the games room but in the same building and that at the back of the building there were another two toilets. [initials] further states that two days before [he/she] was moved portable showers were brought outside the building and were guarded using a fence which prevented individuals from leaving if they used the showers. The fencing was in fact used to

cordon off the showers for the sole use for those who had tested positive for COVID-19, in order to prevent others from using the facilities. As set out in [name] witness statement, these fences were later removed. I have been told that there were in fact 8 showers, 7 toilets and 4 sinks.

Witness statement of [name]

11. At Paragraph 10, [name] states that current residents were not provided with a written information pack in their language. In the time available I have not been unable to establish precisely when induction packs in all relevant languages were made available, but I have been informed that the translating service “Clear Voice” translated the contents of the oral induction process and I can confirm that since my involvement, all induction packs are translated into relevant languages and both versions (English and applicable translation) are provided to residents during the induction process. Clear Voice remains available for translation services.
12. Paragraph 22 states that the nurse is not able to provide dental care. Whilst this is correct, residents do have access to dental treatment. The residents like the local population have access to emergency healthcare and 111. In addition, there is an agreement with a local practice who provide one emergency appointment a day if needed. This is specifically for dental pain, bleeding or swelling. A ‘Dentaid’ van currently visits the site once per month although this has not always been the case.
13. At Paragraph 27 [name] asserts that cleaning sprays have run out and residents have not been given new ones. It is open to individuals to request restocking of any items at the onsite office.

Witness statement of [name]

14. Paragraph 8 states that the advice dated 15 September 2020 “suggested that other measures would be put in place including quarantining residents in cohorts for 14 days in hotels prior to transfer to the barracks, and retaining those cohorts in dormitories”. The measures put in place were to ensure that anyone arriving into

Napier had been in the country for at least 14 days, thus ensuring any COVID-19 that they may have caught prior to arrival in the UK had surfaced.

15. At Paragraph 18 [name] suggests that there is a contradiction in the evidence provided by [names] so far as cohorting is concerned. [name] statement confirmed that a dormitory would be treated as a household for the purposes of managing flow around the rest of the Napier site, for example, going to dinner, undertaking recreational activities etc. That was the position agreed with CRH when the site was setup. The Home Office used the expression prevalent at the time of a “bubble”. [name] is referring to cohorting in the context of Covid outbreaks, i.e. as the splitting-up of individuals into those who are confirmed as positives accommodated together; symptomatic people who are awaiting testing together; and, confirmed negative cases together. I accept that our processes have not been implemented as well as they could have been by CRH and we have sought to make improvements. Our current plan, which has been shared with stakeholders, is to retain two blocks on standby for COVID-positive residents with symptoms and COVID-positive residents who are asymptomatic, respectively. In its current configuration aside from two accommodation blocks which have their own outside bathing facilities, the remaining accommodation blocks and outside bathing facilities are on a ratio of one outside bathing facility to each two accommodation blocks. This means two accommodation blocks (up to 48 people) equate to a household, where they share bathing facilities.
16. At Paragraph 20, [name] states that the private rooms are not yet in use. I can confirm that these rooms are available and can be booked in one hour time slots via the onsite office.
17. At Paragraph 23, [name] states *“nothing in the Defendant’s evidence to suggest that steps are being taken to address the serious fire safety issues identified in the 30 November 2020 fire inspection report”*. I can confirm that the Crown Premises Fire Safety Inspectorate carried out an investigation on 1 February 2021 following the fire and carried out a follow up inspection on 25 February 2021. I exhibit a spreadsheet which sets out remedial works following this inspection [PC/2-6]. In the time available I have not been able to cross reference this against the 30 November 2020 fire inspection report.

I have also looked into the position as regards previous fire risk assessments to the extent that I have been able to do so in the limited time available. I can also confirm that Crown Premises Fire Safety Inspectorate carried out a site visit and hazard inspection prior to occupancy, although this was not a full inspection and that CRH also commissioned updated fire risk assessments in September 2020.

18. At paragraph 44, [name] suggests that many of the residents are not really aware of who Migrant Help is or what support they offer because it had never been explained to them. Residents may have already had contact with Migrant Help prior to arriving at Napier, as they provide assistance with the completion of the asylum support form. They should also have had contact with Migrant Help at their induction when they arrive at Napier. Additionally, there are posters around the site itself and all staff are aware of Migrant Help presence, including the nurse who can direct individuals to Migrant Help staff on site (and also the contact centre).

Witness Statement of [initials]

19. Paragraph 11 makes reference to residents smoking inside dormitories. I confirm that smoking is not permitted and signs are displayed confirming this. A resident can report issues of smoking with NACCS staff or Migrant Help.

Request for information

20. I have been shown the Claimants' 'Request for Information' and, where appropriate and proportionate, have addressed some of their requests below.
21. Paragraph 1 comments on the log books exhibited to [name] witness statement. I confirm that those pages from the log books relate to residents only and there are separate log books for visitors, which have not been disclosed.
22. Paragraph 19 asks whether PHE has been asked to advise on the continued use of the barracks. The Home Office continues to seek advice from and work with PHE and other health agencies regarding the continued use of the site. For example, the Covid-

19 management plan and risk assessment have been updated and sent to the “Kent and Medway Health and Social Care Cell (“Health Cell”) for comment. The health cell is a cell operating within the partnership response structure of the Kent SCG to both EU Exit and the COVID-19 pandemic. The Cell is made up of the Kent and Medway system partners focussed on the health and social care elements of the local COVID-19 response and is constituted by local authority Public Health, Local Authority Social Care, Local NHS leads and the local Public Health England team and chaired alternative weeks by the DPHs of Medway Council and Kent County Council.

23. I should make it clear that the health agencies continue to have serious reservations about use of the site. For example, [name] noted in a previous version of the COVID Management plan that it is not possible to provide a Covid safe environment in a barracks setup [PC2/7-24]. In the latest version of the Contingency Asylum Accommodation: Stakeholder Briefing which was circulated to members of the multi-agency forum chaired by the Strategic Migration Partnership. [name], [job title], considers that the accommodation and configuration of Napier is not line with the CCG guidance and that another outbreak is inevitable. She/he also states that she/he has not been provided with evidence that Napier now provides a COVID safe environment and that the previous configuration did not do so [PC2/25-34]. She/he articulates a concern shared by a number of other stakeholders that the site can never be made covid secure.

24. The Home Office takes the views of the health providers very seriously and we are committed to working with them in this regard. We accept that congregate or communal settings give rise to an increased risk of transmission of Covid-19 and so we are working towards taking steps to improve our processes in terms of identifying and managing any outbreak. We have introduced regular voluntary twice weekly lateral flow tests for residents, staff and visitors as a necessary and proportionate response to managing the risk of covid. This follows the approach adopted in other congregate settings such as by the NHS, schools and prisons.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed:

Dated: 13th April 2021