

TRIBUNAL OF INQUIRY INTO PROTECTED DISCLOSURES MADE UNDER
THE PROTECTED DISCLOSURES ACT 2014 AND CERTAIN OTHER
MATTERS FOLLOWING RESOLUTIONS PASSED BY DÁIL ÉIREANN AND
SEANAD ÉIREANN ON 16 FEBRUARY 2017

ESTABLISHED BY INSTRUMENT MADE BY THE MINISTER FOR JUSTICE
AND EQUALITY UNDER THE TRIBUNALS OF INQUIRY (EVIDENCE) ACT
1921, ON 17 FEBRUARY 2017

SOLE MEMBER: MR. JUSTICE PETER CHARLETON, JUDGE OF THE
SUPREME COURT

HELD IN DUBLIN CASTLE
ON TUESDAY, 3RD OCTOBER 2017 - DAY 30

30

Gwen Malone Stenography
Services certify the
following to be a
verbatim transcript of
their stenographic notes
in the above-named
action.

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1 THE HEARING RESUMED, AS FOLLOWS, ON TUESDAY, 3RD
2 OCTOBER 2017:

3
4 MR. MCGUINNESS: Chairman, we are continuing this
5 morning with the evidence of Ms. Donna McTeague. 10:00

6 CHAIRMAN: Yes. Thanks, Mr. McGuinness. Let's just
7 discuss submissions for a minute, Mr. Harty. I was a
8 bit hasty in taking that jump yesterday; if you need
9 time of course you can have time, but just let's see
10 where we are. I understand Saturday is available and 10:00
11 supposing we finished on Thursday morning, everybody
12 could make their submissions and fit them in on Friday,
13 if that is what you want. But just tell Mr. McGuinness
14 and I will go with the flow as they say. But, as I
15 say, Saturday is available. 10:00

16 MR. HARTY: I am obliged.

17
18 MS. DONNA MCTEAGUE WAS CROSS-EXAMINED BY MR. HARTY:

19 1 Q. MR. HARTY: Ms. McTeague, I am Mark Harty, I am counsel
20 for Garda Keith Harrison. Can you assist me, because 10:01
21 you use terms of art in relation to your business that
22 I don't necessarily understand, and it would be helpful
23 for me to understand those things in relation to
24 dealing with things. Firstly, can you explain to me
25 the different categories of social worker that there 10:01
26 are and what their various roles are in relation to
27 this?

28 A. Sure. Within the child protection system we have a
29 duty social worker and then we have social workers who

1 carry on further assessments after the duty social
2 worker has completed their role. So, you have a duty
3 social worker, you have a child protection social
4 worker and then you, obviously in other departments you
5 have social workers for disability, for older people, 10:01
6 for learning disabilities, social workers for foster
7 carers and for children in foster care.

8 2 Q. Okay. And you mention child protection system, and
9 there is a distinction made between child protection
10 and child welfare, can you explain to me what that is? 10:01

11 A. Yes. The Child Protection Service receives all
12 referrals in relation to child welfare and child
13 protection referrals. We designate the category of the
14 referral on the basis of the information that we
15 receive but the Child Protection Service deals with, 10:02
16 the social workers in the Child Protection Service deal
17 with all of the referrals in relation to child welfare
18 and child protection.

19 3 Q. Now, can you explain to me how you designate between
20 child welfare and child protection? 10:02

21 A. As a duty social worker, on receipt of the referral
22 information, regardless from whom the referral comes,
23 you make a determination on the basis of the
24 information you receive, whether it reaches a threshold
25 for child protection or whether it reaches a threshold 10:02
26 for child welfare. You then, on the basis of your
27 assessment and gathering information the priority of
28 that case may go up to a child protection referral or
29 it may come down to a child welfare referral.

1 4 Q. Is that the grading 1, 2 and 3?
2 A. That's correct.
3 5 Q. And child welfare is what grading?
4 A. It's priority level 2.
5 6 Q. Priority level 2. I understand. Priority level 1 is 10:02
6 child protection?
7 A. That's correct.
8 7 Q. Now, can you explain to me the threshold in -- what is
9 priority level 3 or is there a priority level 3?
10 A. Yes, there is. Priority level 3 would be a case where 10:03
11 we would look at -- the referral information would
12 pertain particularly to family support issues or
13 referrals whereby we would be in a position to redirect
14 community services. Generally not the -- immediate
15 welfare concerns are not evident in the information or 10:03
16 from our initial screening and preliminary inquiries.
17 8 Q. Okay. Now, when say you say community level services,
18 are there social workers operating at that level in
19 respect of child welfare as well or is there particular
20 organisations that you would refer them on to? 10:03
21 A. There are particular organisations we would refer on
22 to.
23 9 Q. The question then of the threshold, can you explain to
24 me what the threshold is between category 1 and 2 and
25 category 2 and 3? 10:03
26 A. Yes. Category 1, as I explained, is a child protection
27 referral. So a child protection referral, when I would
28 designate that there would be evidence of abuse or
29 neglect in the referral information. In particular,

1 whether it being emotional, sexual, physical abuse, or
2 neglect indeed. And the child welfare referral, when
3 there would be a risk of immediate harm or potential
4 risk of threat or immediate harm to a child. A child
5 welfare referral is when a child may have been a 10:04
6 witness to an incident or may have been a party to
7 ongoing issues of concern in a family environment,
8 where parents may need support in providing care to
9 their children, in meeting their needs, and in not
10 doing so there is a welfare implication for the child, 10:04
11 but there isn't evidence of immediate risk.

12 10 Q. Okay. In relation to that, you are obviously at the
13 referral stage entirely dependent on the information
14 that you receive, isn't that correct?

15 A. At the outset, yes. 10:04

16 11 Q. Because unless a child is within your concern -- within
17 your, shall we say, vision or view, once they are
18 brought into your view you are reliant on the evidence
19 that comes to you or the information that comes to you
20 from third parties at that initial stage, isn't that 10:05
21 right?

22 A. That's correct.

23 12 Q. And that is the basis upon which you designate -- that
24 information is what you rely upon to designate the
25 urgency in respect of a matter, isn't that right? 10:05

26 A. That's correct.

27 13 Q. The question, I suppose, I need to ask you: Does one
28 row in front of a child give rise to child welfare
29 concerns?

1 A. One row in front of a child, on its own without
2 additional information around that, I would want to
3 conduct preliminary inquiries just to find out other
4 information. It's really important as a duty social
5 worker that I don't miss things. I would prefer to 10:05
6 make every attempt that I can to gather information and
7 make an informed decision rather than close something
8 down on the basis of just a small piece of information.

9 14 Q. But you are -- I mean, we saw in respect of the 2012
10 referral, which you didn't deal with, but that it was 10:06
11 possible that the information, which was scant and was
12 anonymous, and -- but you still investigated it because
13 the information came across your desk, or sorry, the
14 organisation still investigated it because the
15 information came across your desk? 10:06

16 A. Yes. That's correct, yes.

17 15 Q. in relation to the mechanism then for engaging with An
18 Garda Síochána, there are designated liaison Gardaí in
19 every district, isn't that correct?

20 A. That's correct. 10:06

21 16 Q. And you would expect any contact to come to you from
22 the designated liaison person, but I presume you can
23 also get information randomly from other sources within
24 Garda Síochána?

25 A. Yes. All the referrals from the Gardaí, they can come 10:06
26 from certainly the liaison sergeant, but they also can
27 come from other rank and file Gardaí through their
28 superintendent and into the agency, yes.

29 17 Q. Right. So there isn't a requirement that any reference

1 to the agency must go through the liaison person, you
2 have had it through the superintendent as well?

3 A. Yes. But the origination of the referral can come from
4 any guard, I understand, and currently that is how we
5 receive our referrals it. Could be a guard out on his 10:07
6 normal duty that comes across an incident of concern, a
7 standard notification is completed by the guard in
8 question, it is signed off by their superintendent, it
9 comes across to our principal social worker and down to
10 me. 10:07

11 18 Q. Yes. And I take it, it is important at that stage to
12 note all relevant information because different social
13 workers can be dealing with the one case over a period
14 of time, so all information that you receive should be
15 carefully noted, isn't that correct? 10:07

16 A. The information we receive on the notification?

17 19 Q. Well, both on the notification and after the
18 notification. Once the notification is received, you
19 will then make contact for further information, is that
20 what happens? 10:08

21 A. Yes, that's correct.

22 20 Q. And that further information that you receive, that
23 would be carefully noted, isn't that correct?

24 A. In most instances, yes.

25 21 Q. And the purpose for that, and we have seen this in the 10:08
26 Children First Guidelines is to ensure that -- and I
27 think Mr. Hone gave the evidence, I am not sure that
28 you didn't give the evidence yourself as well, that
29 because these files can often be dealt with by

1 different people within the service, it's important
2 that all information is maintained carefully, isn't
3 that right?

4 A. That's correct.

5 22 Q. And in relation to matters that would give rise to 10:08
6 alarm bells, all the more important that information is
7 noted down, isn't that correct?

8 A. Yes. In child protection referrals and child
9 protection cases we would be increasingly diligent in
10 those particular instances to record information 10:08
11 carefully, yes.

12 23 Q. If I can just bring up page 1217, and to the words at
13 the bottom of that page please. In relation to
14 informal consultation, you will see that. It was
15 partially opened by counsel for Tusla yesterday but 10:09
16 perhaps it would be helpful if you can assist me in
17 relation to this.

18
19 "In cases where the HSE is aware of concerns about a
20 child but is unable to establish sufficient grounds for 10:09
21 formal notification, the HSE should consult An Garda
22 Síochána on an informal basis."

23
24 And that is the basis on which you would do an informal
25 consultation, whereby you have reasons to think that 10:09
26 matters might need to be progressed and therefore
27 consult with the Garda Síochána, isn't that right?

28 A. That's correct.

29 24 Q. "Such contact is to be actively encouraged in order to

1 protect the welfare of the child concerned."

2

3 And that is yet again just to make sure that
4 information is shared even where things haven't gone to
5 a stage of a formal notification, isn't that right? 10:10

6 A. That's correct.

7 25 Q. But it doesn't apply where a formal notification has in
8 fact taken place?

9 A. No, it also applies in that instance.

10 26 Q. Well, it doesn't. That paragraph -- I am saying 10:10
11 informal contacts don't apply once a formal
12 notification takes place. This is to deal with
13 situations whereby a formal -- there is not sufficient
14 grounds for formal notification.

15 A. I don't agree. I suppose in my practice one of the 10:10
16 most important aspects of my work is formal and
17 informal conversations with the Gardaí, whether it's
18 with our liaison sergeant or whether it is with Gardaí
19 who make direct referrals. One of the difficulties
20 that we quite often have is that the information in the 10:10
21 notifications that come to us from the Gardaí can be
22 quite scant. We will often contact the Gardaí directly
23 to seek information on that. So, if I was to agree
24 with you I would be saying if the information is scant
25 I wouldn't be contacting them. I might get sufficient 10:10
26 information but I will contact them to see if there is
27 any other information that might be helpful to me. So
28 that informal consultation, I suppose it's the
29 foundation of our practice and our engagement with the

1 Gardaí. In order for us, as joint agencies working
2 together, to promote the welfare of children we need to
3 be able to consult on a formal and informal basis in
4 respect of any information that we might get.

5 27 Q. I appreciate that you have to consult, but once a 10:11
6 formal notification has been received -- I am not
7 talking about the forum being informed or I am not
8 saying it isn't by way of a chat to exchange
9 information, informal contact, but that when you
10 receive information by way of a formal notification, 10:11
11 every other piece of information that you receive from
12 An Garda Síochána is no longer, shall we say, simply a
13 chat, it should be noted carefully, isn't that correct?

14 A. Certainly relevant information will be recorded. I
15 think, I would have regular contacts with the Gardaí 10:11
16 where I may obtain information that might not be all
17 recorded completely, nor I would presume with them. I
18 could be out of the office when I am making those
19 calls, as they could be, so it might not necessarily be
20 the case that everything -- we would strive to do that 10:12
21 but it's certainly not the case that that always
22 happens in practice.

23 28 Q. Yes. There is, however, and if we go to page 1219, and
24 7, that is "Record-Keeping" there, and this is where
25 it's dealt with in relation to formal contact, and what 10:12
26 then is to be done:

27
28 "The HSE and An Garda Síochána should keep a written
29 record of decisions taken in relation to the case.

1 This record should be accessible in the absence of
2 specific personnel allocated to the case. All contacts
3 between the HSE and An Garda Síochána should be
4 recorded. A decision that is made by the HSE or An
5 Garda Síochána not to proceed must be recorded in
6 detail." 10:13

7
8 But you see that the Guidelines say that all contacts
9 should be recorded?

10 A. I see that, yes. 10:13

11 29 Q. Not necessarily all the detail of the contact, but the
12 fact of the contacts should be recorded?

13 A. Yes.

14 30 Q. And you accept that that is the way it should be done?

15 A. That is the record in Children First, yes. 10:13

16 31 Q. And then if we go to page 1220, and the bottom of that
17 page, the "Ongoing Liaison" there:

18
19 "The HSE social worker and the designated garda should
20 stay in regular contact and inform each other of 10:13
21 developments in the case as they take place and record
22 these on the record of the Garda/HSE liaison form. The
23 link between both agencies should be maintained until
24 the criminal investigation and the prosecution is
25 completed." 10:14

26
27 Do you accept that that needs to be done?

28 A. Yes.

29 32 Q. Can we go then to page 1253? And this is a record of

1 Garda/HSE liaison. Now, can you tell me, who fills
2 that out?

3 A. Those documents are filled out, filled out between the
4 liaison sergeant and the duty social worker or indeed
5 the liaison sergeant and the team leader. 10:14

6 33 Q. And those documents are -- so there is a copy of this
7 kept in both offices, as such?

8 A. That's correct.

9 34 Q. And can you tell me did you fill out one of these in
10 this case? 10:14

11 A. It wasn't necessary in this case. And the reason for
12 that being, because we had a strategy meeting. In
13 cases where we have a strategy meeting in respect of
14 the welfare of a child we don't fill in a HSE/Garda
15 liaison sheet. They are only filled in, in cases where 10:15
16 we don't hold strategy meetings.

17 35 Q. Can we move to the next page, 1254? That definitely
18 deals with the strategy meeting?

19 A. Yes. We use our record, you will see from the previous
20 record we've -- it's been before the Tribunal, we have 10:15
21 a strategy meeting documentation that we use within
22 Tusla, within the department, it's on our recording
23 system. It's also in the documentation, I am not sure
24 on which page. We have an agreement and have had an
25 agreement in Donegal since the Children First 10:15
26 Guidelines came out, the documentation at the end of
27 Children First Guidelines is too cumbersome, this
28 particular strategy discussion, so we use our own
29 strategy discussion record that retains the same

1 information.

2 36 Q. But the Gardaí don't have a copy of your strategy
3 discussion record?

4 A. Yes, they do. When we complete our strategy meeting
5 minutes those minutes are sent to whomever attended the 10:15
6 meeting in all cases.

7 37 Q. We didn't receive those from An Garda Síochána, so are
8 you certain that that happened in this case?

9 A. I would imagine it would have had. Look, I can't be
10 absolutely certain but in all cases I hold a strategy 10:16
11 meeting the minutes generally are circulated to the
12 Gardaí.

13 38 Q. But you accept that the Children First Guidelines
14 requires that this is to be filled out?

15 A. I accept that the Children First Guidelines state that 10:16
16 a strategy meeting -- when a strategy meeting takes
17 place there needs to be a minute of that meeting. We
18 don't use this particular document.

19 39 Q. Page 1220 again, paragraph 7.13.1:
20
21 "The HSE social worker and the designated Garda should
22 stay in regular contact and inform each other of
23 developments in the case as they take place and record
24 these on the Record of Garda/HSE Liaison Form."
25
26 I mean, the Guidelines are explicit on that; that this
27 form should be used.

28 A. I accept that that is what is in the Guidelines. What
29 I am clearly saying is our practice is not affected by

1 the particular document or form that we use. We had a
2 strategy meek, we recorded it on our strategy meeting
3 document. We had discussion in the case. And Sergeant
4 McGowan, Brigid Smith and I attended that meeting.
5 There is a record. We don't use and have not used and 10:17
6 do not currently use this form in Children First in
7 Donegal. We have our own strategy meeting record and
8 the information is retained there.

9 40 Q. Am I correct in saying that the HSE -- the Guidelines,
10 Children First Guidelines aren't supposed to be an a la 10:17
11 carte system, they are supposed to be followed, aren't
12 they?

13 A. It's important to be clear about this. The Guidelines
14 are there to facilitate and enable interdepartmental
15 conversation and discussion around the welfare of 10:17
16 children. This particular form has been challenged I
17 understand by An Garda Síochána in its current format
18 and also by Tusla. The new Guidelines that are to be
19 issued I understand this form is to change, so we have
20 used our own notification form in Donegal and have done 10:17
21 for a number of years and still continue to do so. So
22 the particular form we use, I think over all is
23 irrelevant, what is important is that the recording of
24 the information and the sharing of information is the
25 cornerstone of our practice. 10:18

26 41 Q. I would have to put it to you, Ms. McTeague, that in
27 terms of the Children First Guidelines, that they were
28 carefully constructed, weren't they?

29 A. I would presume they were.

1 42 Q. Yes. And they are relied upon by An Garda Síochána, by
2 various agencies as to the format in which they are to
3 do things, isn't that right?
4 A. That's correct.

5 43 Q. And they are supposed to be followed, aren't they? 10:18
6 A. Yes.

7 44 Q. And this is a very clear directive in relation to what
8 is to be done once Gardaí and HSE are liaising in
9 relation to a referral, isn't that correct?
10 A. That's correct. 10:18

11 45 Q. And in this case it wasn't done, isn't that correct?
12 A. That is not correct. We did liaise, we conducted our
13 business as we should, we didn't fill in the particular
14 form in Children First in the form that it's in, but we
15 utilised another form that we have used in Donegal. So 10:19
16 the work was done, the liaison was completed, the
17 discussion was had, we just used a different form, and
18 we continue to do that.

19 46 Q. Okay. Can you tell me where on your form there is
20 anything to say forensic evidence to be obtained, 10:19
21 medical examination required, the question of legal
22 options, section 16 Criminal Evidence Act interview?
23 Where is all of that on your form?
24 A. It's not on our form. If that was relevant to the case
25 those conversations would arise in the course of the 10:19
26 discussion and we would record them accordingly.

27 47 Q. This form is supposed to be filled out, isn't it?
28 A. That is the form that is in Children First and as I
29 have said already it's not the documentation that we

1 use. We still ensure that we have the -- the purpose
2 of the meeting is to share information, the recording
3 of it is still completed, it's done on a different
4 document.

5 48 Q. Can you tell me what other parts of the Children First 10:20
6 Guidelines you don't follow?

7 A. I am going to be very clear with this: I don't not
8 follow any aspect of Children First Guidelines. I
9 don't use that particular document. It's a decision
10 that we have made in Donegal for a very long time and 10:20
11 continue to do so. I follow the Guidelines, it's the
12 fundamental cornerstone of my practice and it is very,
13 I feel, unfair to suggest that I don't follow the
14 Guidelines. Our practice is informed by our engagement
15 with all agencies, the recording of that information is 10:20
16 also important but we do not use that document.

17 49 Q. Ms. McTeague, I didn't accuse you of anything. Until
18 such time as I asked you about this form I had no
19 reason to believe that you didn't follow it.

20 A. Sure. 10:20

21 50 Q. You have just told me that in Donegal you have made a
22 decision not to use this form. And not to follow the
23 HSE Guidelines -- the Children First Guidelines in
24 relation to that. I didn't say to you that you weren't
25 following it, you told me that you have simply ignored 10:21
26 this provision in relation to the Children First
27 Guidelines, and I am just asking you: Are there any
28 other portions of the Guidelines you feel you cannot
29 follow?

1 A. No.

2 51 Q. No. You appreciate that in this particular instance,
3 the question of the liaison between An Garda Síochána
4 and the HSE is central to what is being investigated by
5 this Tribunal? 10:21

6 A. I understand that, yes.

7 52 Q. I mean, this form should be front and centre, isn't
8 that correct?

9 A. The liaison between Tusla and the Sergeant McGowan in
10 this case was conducted with the utmost integrity, in 10:21
11 my view. I believe that in all of my engagement with
12 Sergeant McGowan, it has been professional, it has been
13 conducted with absolute professionalism. Sergeant
14 McGowan in my view is a very child centred Garda, given
15 the role that she is in. She has been professional, as 10:22
16 I have been, in all of my engagement with her.

17 53 Q. Right. I didn't ask you that. I asked you why this
18 one document, which is the one document that should
19 have been central to this inquiry, was not filled out,
20 and you have told me that a decision was made in 10:22
21 Donegal not to use this document. And is that in all
22 cases that it's not used?

23 A. Yes.

24 54 Q. And when was that decision made?

25 A. I don't know. I didn't make the decision. I was the 10:22
26 duty social worker. This is how we did our practice.
27 I am currently the team leader in the intake team in
28 Donegal and we still don't use this form. That does
29 not mean that our engagement with An Garda Síochána is

1 in any way undermined or in any way different. We
2 record it in a different template. Our work is still
3 done, the engagement is still there, the
4 cross-references with agencies and accountability is
5 still evident in our practice. 10:22

6 55 Q. I have to put it to you, Ms. McTeague, that you are
7 obliged to follow the Children First Guidelines to the
8 letter. There's lots of room in relation to informal
9 contacts and everything else contained within it, but
10 you are obliged to follow the Guidelines to the letter, 10:23
11 isn't that correct?

12 A. That's correct.

13 56 Q. In relation to your contacts with Brigid McGowan in
14 respect of this case, your first notification of this
15 was on 9th October, isn't that correct? 10:23

16 A. That's correct.

17 57 Q. And who was present at that conversation?

18 A. We were leaving a strategy meeting, a number of
19 strategy meetings in relation to other cases and
20 Sergeant McGowan mentioned it as we were leaving. 10:23
21 Ms. Coll was acting team leader on that particular
22 occasion for Ms. Smith, who was on leave. She may or
23 may not have been there when we were having the
24 conversation as we were leaving. I can't be sure about
25 that. 10:24

26 58 Q. Okay. Do you recall being notified of it on that date?

27 A. Yes, I do.

28 59 Q. Okay. And you were given what sort of detail, what was
29 said to you?

1 A. Sergeant McGowan asked, advised me that she had
2 forwarded a notification in relation to the Simms
3 children. She asked me if I had received the
4 paperwork, I hadn't at that stage. I asked her what it
5 was in relation to. She said there had been an 10:24
6 argument between Ms. Simms and her current partner.
7 She didn't name Garda Harrison at that time. She said
8 that her partner was under the influence of alcohol and
9 there had been physical contact between them.

10 60 Q. Okay. And just in relation to that, did she say the 10:24
11 children had witnessed the physical contact?

12 A. Yes, the children were a party to it. The children
13 were a witness to it, she didn't specify whether it was
14 a physical contact, there are other ways, but that this
15 had happened. 10:24

16 61 Q. Now, can I be clear that, what would happen if you are
17 notified that one person had had a row with another
18 person in the presence of their children, do Tusla
19 become involved?

20 A. If one person -- say that again, sorry. 10:25

21 62 Q. A couple, a married couple have had a row in front of
22 their children, does that involve Tusla?

23 A. No.

24 63 Q. No. So that is below any threshold for Tusla?

25 A. Yes. 10:25

26 64 Q. A married couple had a row when there was drink taken,
27 does that involve Tusla?

28 A. Potentially, yes. I would want more information, yes.

29 65 Q. All right. A married couple had a row which the

1 children didn't witness, does that involve Tusla?

2 A. No, not necessarily, but I would want more information
3 on that as well.

4 66 Q. Right. You are not seriously saying to me that simply
5 because somebody tells you that a couple had a row 10:25
6 where the children were present, that Tusla would
7 become involved?

8 A. No, I am not saying that. But the information that I
9 had was there was alcohol involved and there was a
10 physical contact between the adults concerned and the 10:26
11 children witnessed this. That does meet the threshold.

12 67 Q. Okay. And what happens if the children hadn't
13 witnessed it?

14 A. I would still want more -- if the children hadn't
15 witnessed it I wouldn't know anything about it. It 10:26
16 would have been a row between two adults. That is not
17 the information that I had had.

18 68 Q. The information you had was that the children had
19 witnessed the physical contact?

20 A. They had witnessed -- I don't know what part they had 10:26
21 witnessed, the children witnessed it. At that stage I
22 didn't know that the children had witnessed this. I
23 didn't go into any details because I didn't have the
24 paperwork, we were leaving a meeting and at that point
25 I said, look, we need a strategy meeting, can we 10:26
26 organise it and we agreed a date.

27 69 Q. So you agreed a date for a strategy meeting at that
28 stage?

29 A. Yes, I did.

1 70 Q. The referral was then received by Mr. Hone on 16th, I
2 understand, of October. And he said that nothing
3 further would be done in relation to it and that it was
4 to be forwarded to Bridgeen Smith for information
5 purposes only. So, how did it come about that that 10:27
6 strategy meeting then proceeded?

7 A. In advance of receiving the paperwork I had had the
8 information, that additional information from Sergeant
9 McGowan that allowed us to proceed to a strategy
10 meeting. Mr. Hone on receipt of that paperwork from 10:27
11 the superintendent would not have known that I had had
12 the conversation with Sergeant McGowan the previous
13 week. So he wasn't in receipt of that information at
14 the time when that letter was written.

15 71 Q. Right. And how did you correct that with Mr. Hone? 10:27

16 A. I didn't. I didn't have a need to correct that with
17 Mr. Hone. I wouldn't be liaising with my principal
18 social worker in relation to case-management or
19 casework on a case. It wouldn't be something that I
20 would do. 10:28

21 72 Q. Why would you not liaise with -- where he has made a
22 decision that the referral would not be taken in,
23 surely somewhere on the system it should be noted why
24 that decision was no longer being followed?

25 A. Mr. Hone in his evidence to the Tribunal yesterday 10:28
26 indicated that it was not a decision.

27 73 Q. I appreciate that is what his evidence is, but I would
28 suggest to you that the letter says otherwise.

29 A. That is not -- was not a decision. It's important to

1 understand that when Garda notifications come into the
2 principal social worker's office, Mr. -- and the
3 information is scant on those notifications, quite
4 often letters like that could go back to the Gardaí
5 concerned or to the Garda concerned. My job is to make 10:28
6 sure that I follow that up. If no additional
7 information is made available then we make a decision
8 at practice level whether the case proceeds or
9 otherwise. It was not a decision and Mr. Hone gave his
10 evidence in that regard yesterday. 10:29

11 74 Q. Sorry, Mr. Hone wrote:

12
13 "However, as there is no evidence of abuse detailed no
14 further action will be taken from this service until we
15 receive more information." 10:29

16
17 Are you saying that that is not a decision made by
18 Mr. Hone?

19 A. I am saying that is not a decision made by Mr. Hone.
20 That is what his evidence is and I would support that. 10:29
21 I had further information to allow me to proceed to a
22 strategy meeting in advance of the paperwork being
23 received by the department.

24 75 Q. Okay. The information that you had came on foot of an
25 informal chat with Sergeant McGowan, isn't that 10:29
26 correct, on the 9th of October? Where did you note
27 that information down?

28 A. I didn't note that information down. And I can say,
29 Chairman, that was a mistake on my part; that

1 information should have been noted, and it wasn't. At
2 the time when I received the verbal information from
3 Sergeant McGowan I had nowhere to record it because I
4 hadn't received the paperwork in relation to the
5 notification. On receipt of that notification yes, I 10:30
6 should have recorded that information but I didn't.

7 76 Q. But you should have recorded the information day one,
8 shouldn't you, on 9th October?

9 A. No, I shouldn't, because I didn't have anywhere to
10 record it. There was no active paperwork file on the 10:30
11 children, I couldn't record it until I received that,
12 until that was opened on the system, which I did on
13 receipt of the paperwork on the 16th.

14 77 Q. Right. And that information is quite important, isn't
15 it, that you received on the 9th of October? 10:30

16 A. Yes.

17 78 Q. And the nature of your conversation with Sergeant
18 McGowan was important because that is what escalated
19 this. Mr. Hone said he wasn't willing to deal with the
20 matter, putting it at its -- apparently that is not a 10:30
21 decision, but he wasn't willing to deal with the matter
22 unless they received further information. You had
23 further information which wasn't noted anywhere, isn't
24 that correct?

25 A. That's correct. 10:31

26 79 Q. And it is that further information which arose during
27 an informal chat leaving another meeting with Sergeant
28 McGowan which gave rise to the involvement of Tusla in
29 this, isn't that correct?

1 A. That's correct.

2 80 Q. And that is noted nowhere?

3 A. As I said, it was an error on my part in not recording
4 the information from Sergeant McGowan when I activated
5 the referral on the system, but the information I 10:31
6 received met the threshold for a social work
7 assessment.

8 81 Q. And see, it's important that we are clear as to what
9 this information that you received was. And I am still
10 not clear what the information you received. You say, 10:31
11 and it's noted, I am just trying to find the
12 notification, that the information that was received
13 was that there had been physical contact during a row
14 in which drink was taken and this was witnessed by the
15 children, isn't that correct? 10:32

16 A. What I said was that Sergeant McGowan advised me that
17 Ms. Simms and her current partner had had an argument,
18 that her partner had consumed alcohol at the time, the
19 children were present and that he had -- there was a
20 physical contact between them. That is enough for me 10:32
21 to need to proceed to a strategy meeting given the
22 notification comes from the Gardaí and to conduct
23 preliminary inquiries in relation to that.

24 CHAIRMAN: Maybe I could intervene here just from the
25 point of view of clarity, appreciating that these 10:32
26 things are a while back. Now, as I understand it on
27 the 9th of October 2013 you met Sergeant McGowan
28 face-to-face?

29 A. Correct.

1 CHAIRMAN: Yes. And that the information you got on
2 that occasion, which you didn't note down, you say that
3 is a mistake, that is fine, was that there had been a
4 disagreement between parents, that the physical contact
5 involved holding her wrist, that is what I thought you 10:33
6 had said, the children witnessed this, and there was a
7 threat apparently that the mother wouldn't see her
8 children and that alcohol was involved?

9 A. The information with regard to the threat I didn't know
10 until the morning of the 7th February. All the rest of 10:33
11 the information that you have just said I was aware of
12 it on the 9th.

13 CHAIRMAN: All right. And then, as I understand it,
14 you had another contact on 16th October 2013, is that
15 right? 10:33

16 A. With?

17 CHAIRMAN: With Sergeant McGowan?

18 A. No, I did not.

19 CHAIRMAN: Okay. When it came then to the information
20 that there was a total rant and that one child came in 10:33
21 from the car and witnessed the total rant, when did
22 that bit of information come --

23 A. On the 21st October at the strategy meeting.

24 CHAIRMAN: That was the morning -- sorry, on the 21st
25 October at the strategy meeting? 10:34

26 A. Yes.

27 CHAIRMAN: So that, if you like, is the additional bit
28 of information, there was nothing more than that, and
29 there was no burn or bury mentioned on either of those

1 occasions?

2 A. Not to the best of my recollection, no.

3 CHAIRMAN: Not to the best of your recollection. And
4 then the third, if you like, tranche of information
5 that you got would have been on the morning of the 7th 10:34
6 February when you had, prior to the meeting, rung
7 Sergeant McGowan again, it seems that she said that
8 there was a total rant --

9 A. Yes.

10 CHAIRMAN: -- that it was threatening and abusive 10:34
11 comments, but burn and bury wasn't added.

12 A. That's correct.

13 CHAIRMAN: As far as you recall.

14 A. As far as I recall, yes.

15 CHAIRMAN: So incrementally, it had gone up from being 10:34
16 a row in front of the children, held by the wrist, then
17 added total rant on 21st of October, one child came in
18 from car and then going on then to the 7th February on
19 the telephone, total rant is repeated as well as the
20 other bits and pieces that we already know, and then 10:35
21 threatening and abusive comments and, as far as you
22 know, the threatening and abusive comments, was that
23 that she wouldn't see the children because she was a
24 bad mother?

25 A. That is what I recorded on my notes at the time and I 10:35
26 wrote those as I was on the phone to her, to Sergeant
27 McGowan on the 7th.

28 CHAIRMAN: And it was in the context of not being a
29 competent mother?

1 A. I didn't -- there was no inference to that.
2 CHAIRMAN: No, no, I know, but --
3 A. Yes, if I was reading between --
4 CHAIRMAN: I mean, it's very rare that a mother would
5 ever have children taken away from her, but the threat 10:35
6 was that she wouldn't see her children --
7 A. Yes.
8 CHAIRMAN: -- except at the weekends. Did you get
9 that?
10 A. I didn't get the weekend part. 10:35
11 CHAIRMAN: Thanks. It is a lot clearer.
12 A. I subsequently saw that. In terms of the sequence of
13 events, I also had a conversation with Sergeant McGowan
14 at the end of January as well when I initiated that
15 contact, but there was no discussion at that stage 10:35
16 about what actually had been said.
17 CHAIRMAN: No, that makes it clearer. Thank you. So,
18 maybe that helps, Mr. Harty, I don't know.
19 82 Q. MR. HARTY: No, I am afraid I do need to go back over
20 all of this. Your statement said -- this is why it's 10:36
21 important that we work this out:
22
23 "Sergeant McGowan explained --"
24
25 If I go to page 1143. 10:36
26
27 "-- Ms. Simms had made a statement of complaint to the
28 Gardaí in relation to the incident in which she advised
29 that Mr. Harrison was under the influence of alcohol at

1 the time of the incident and physical contact was
2 evident in the interaction. The children were reported
3 to have witnessed what occurred and were upset."

4
5 Am I to take it that you understood from your talk with 10:36
6 Sergeant McGowan that the children witnessed the
7 physical contact and the rant, because that is what
8 your statement says there?

9 A. I just want to have a read of this again, sorry. To
10 the best of my memory, that information on the 9th 10:36
11 October, the information that I received from Sergeant
12 McGowan was that the children were present for the
13 rant. I didn't clarify at that stage whether they saw
14 the physical altercation, that information was gathered
15 subsequently at the strategy meeting. It was enough to 10:37
16 allow me to proceed to an assessment. It would be
17 unfair of me to say that I absolutely know for definite
18 that the children witnessed the physical altercation,
19 but they were certainly present for the row and Garda
20 Harrison was under the influence of alcohol. I didn't 10:37
21 know it was Garda Harrison at that time, on 9th of
22 October.

23 83 Q. Just so we are clear on that, there's no mention of a
24 rant on the 9th of October, it was a row that was
25 mentioned? 10:37

26 A. Yes, that's correct.

27 84 Q. And I would have to say to you that it's quite
28 important as to whether or not children witnessed the
29 physical contact, isn't that correct?

1 A. Yes, it is. But it's also important to be aware that
2 even if the children didn't witness the physical
3 contact, if I knew or didn't know this at that time,
4 the fact that it had occurred whilst the children were
5 there was enough for me to be concerned. It was enough 10:38
6 to meet the threshold to move forward to a strategy
7 meeting.

8 85 Q. Were you told that the children were present for the
9 row?

10 A. Yes, the children were present. This was basically a 10:38
11 conversation that Sergeant McGowan was flagging with
12 me, that a referral was coming, she was letting me
13 know, and I didn't get into any detailed discussion,
14 nor indeed did Sergeant McGowan as she was leaving the
15 meeting. We had scheduled a strategy meeting to 10:38
16 discuss this in more detail a fortnight later.

17 86 Q. Would you accept that if children were not present for
18 the row or the majority of the row, that that would
19 change the import of what you are being told?

20 A. No, because if I know -- I suppose taking this case, or 10:38
21 indeed any case, if an argument occurs in a family home
22 where alcohol is involved, and children are present in
23 that home, whether they witness the actual incident or
24 otherwise, there is an emotional fallout of that for
25 the adults involved. So my concern as a social worker 10:38
26 is about the impact of events in families' lives that
27 impact on their children emotionally. So whether the
28 children were physically and physically saw what had
29 occurred or not isn't going to be something that's

1 going -- yes, certainly it's important, but it has
2 equal, if not slightly lesser, importance if the
3 children were there and they are in some way negatively
4 emotionally impacted by this. And it's my job, I
5 suppose as a competent and professional social worker, 10:39
6 to gather the information around that appropriately.
7 So whether they were present or not for the actual
8 physical part of the event or otherwise would still
9 allow me to proceed to assessment. And again, to be
10 clear, this was a conversation with Sergeant McGowan as 10:39
11 we were leaving, she was flagging up something that was
12 on its way to me.

13 87 Q. And in relation to that, you are dependent on the
14 quality of the information that you receive, isn't that
15 correct? 10:39

16 A. Yes.

17 88 Q. And in relation to the quality of the information that
18 you receive, the more detail you can be given and the
19 more accurate that information is, the more valuable it
20 is to you, isn't that correct? 10:40

21 A. That's correct.

22 89 Q. If you were given sufficient information, it is
23 possible that you might decide that there is no
24 requirement to escalate the matter at all to an
25 investigation on your part -- or an assessment, shall 10:40
26 we say, on your part, if you are given enough
27 information about any row?

28 A. Yes. I suppose, to be clear, when the Gardaí are
29 making referrals in to us they are making referrals on

1 the basis of what they heard or what they saw or what
2 they have been told. It's my job to make the
3 determination from Tulsa's point of view about whether
4 this meets the criteria for assessment or otherwise.
5 So I am going to be asking questions that allow me to 10:40
6 make a decision whether to proceed or otherwise. So
7 yes, the importance of the information that they
8 provide to me is, yes, what information they have, but
9 it also comes from the questions that I will pose to
10 them in the course of my engagement around that 10:40
11 referral information at the outset.

12 90 Q. Yes. The question then of the precise detail that you
13 are given, the more precision you are given the more
14 valuable that is in terms of the need for your
15 involvement or otherwise, isn't that correct? 10:41

16 A. That's correct.

17 91 Q. And the more accurate that information is in terms of
18 how it's reported to you, the more useful it is?

19 A. That's correct.

20 92 Q. The information that you received, it was quite 10:41
21 important as to whether or not the children had
22 witnessed the row and had witnessed the physical
23 contact, isn't that correct?

24 A. That's correct.

25 93 Q. And also it would be important for you to know whether 10:41
26 or not this was uncharacteristic to have a row in front
27 of the children or normal to have a row in front of the
28 children?

29 A. It's information that I would then gather when we met

1 at the strategy meeting, yes, that's correct, yes.

2 94 Q. But if the Garda Síochána knew whether or not this was
3 commonplace in front -- occurring in front of the
4 children, that's a relevant piece of information that
5 you could have received that would have assisted you in 10:42
6 relation to the matter?

7 A. Which we did receive when we met at the strategy
8 meeting. It's really important to be clear about this,
9 you know, sort of informal conversation. There was no
10 questioning of Sergeant McGowan in terms of: well, 10:42
11 what happened? How did it happen? How often did it
12 happen? I didn't have any detailed discussion at that
13 stage. She was flagging up to me a referral that was
14 coming my way. Those questions were relevant at the
15 time of the strategy meeting. I wasn't going to be 10:42
16 having that strategy meeting as we were leaving a
17 meeting and going on to do something else. So to be
18 clear, my decision to proceed to a strategy meeting was
19 on the basis of the information that I had, that I have
20 shared with the Tribunal, and it was an appropriate 10:43
21 decision to make based on what I knew.

22 95 Q. Ms. McTeague, just so we are clear in relation to this,
23 neither Garda Harrison or to my understanding Ms. Simms
24 have ever suggested that you have acted in a manner
25 which was inappropriate? 10:43

26 A. I understand that.

27 96 Q. And they have been very clear in relation to that at
28 all times.

29 A. Yes.

1 97 Q. That in terms of the information that you received --
2 sorry, sir.

3 CHAIRMAN: Well, I am sorry, I don't believe that is
4 the case. And this is a point at which perhaps I need
5 a clarification. If it be the case that indeed, as the 10:43
6 allegation which was made at the start of the Tribunal,
7 which has not been dropped, was that this witness said
8 at the end of the office meeting that it would be very
9 unlikely that they would be seeing each other again, if
10 this witness made some kind of an apology in coming in 10:43
11 the door when the home visit was done --

12 MR. HARTY: Sorry, sir, I will deal with that with the
13 witness.

14 CHAIRMAN: I need to finish, Mr. Harty. Seriously, I
15 need to finish. Maybe my mind is over-tidy, maybe my 10:44
16 mind is over-pigeonholed, I mean I will accept that
17 criticism from anybody, but I think I am going to start
18 again. If it be the case that this witness said at the
19 end of the meeting on the 9th February with Keith
20 Harrison and Marisa Simms that it was very unlikely 10:44
21 that she was going to visit their home, which is
22 alleged, then it may be that she was not following what
23 she ought to have been following, which was to leave
24 the matter open; if this witness then apologised when
25 making the home visit and expressed wonderment as to 10:44
26 why she was there, if this witness then in the kitchen
27 to Marisa Simms, as repeated to Garda Keith Harrison,
28 said that she was only here because of pressure from
29 her superior who had had pressure put on them by the

1 Gardaí, that would be wrong; if it were the case that
2 she had accepted direction from a superior on the basis
3 of pressure from the Gardaí, which is the main
4 allegation made, and it was I think in the letter to
5 Minister Zappone, that also would be wrong. And those 10:45
6 are a series of wrong things that are alleged against
7 this witness or have been alleged, the status of them
8 at the moment is unclear but certainly this witness is
9 accused of a number of things and that is the reason
10 that she is represented. 10:45

11 98 Q. MR. HARTY: The Tribunal is of the view that certain
12 things that have been said are personal allegations
13 against you, Ms. McTeague, and can I assure you that
14 there was no personal allegation made against you by
15 Garda Harrison in relation to it? And that is the 10:45
16 situation. And that has remained their case; that at
17 all times your contact with them was professional and
18 at all times it was friendly and at all times your
19 contact with them was, as far as they were concerned,
20 somebody who was doing their job as they were required 10:46
21 to do it or directed to do it. And that has been their
22 case at all times. In relation to what --

23 CHAIRMAN: No, but sorry --

24 MR. HARTY: Sorry, sir, I am not going to engage in a
25 situation whereby this is -- and this constantly -- 10:46

26 CHAIRMAN: Mr. Harty, I am sorry, I am the Judge. I
27 mean, I may be very bad at the job, but I am still the
28 Judge, and I am entitled to interrupt and I am entitled
29 to direct proceedings in accordance with what seems to

1 me to be the path which may lead to the truth. Now, I
2 appreciate, Mr. Harty, that your clients have at all
3 times said that Ms. McTeague was kind and courteous,
4 but there are other allegations as well as that and
5 these are serious matters and they are ones that I need 10:47
6 to resolve one way or the other. So we can take it as
7 a fact that no one is saying and no one has ever said
8 that Ms. McTeague was anything other than kind and
9 courteous, but that's, frankly, what one would expect.
10 It is the allegation of her being manipulated through 10:47
11 her superior by the Garda Síochána, apologising for her
12 presence and saying that she shouldn't really be there,
13 that is actually central to any determination that I
14 might make that this entire home visit was somehow set
15 up by the Garda Síochána. Because that is what really 10:47
16 I am inquiring into.

17 MR. HARTY: No, sir, what you are inquiring into is
18 contacts between An Garda Síochána and Tusla in respect
19 of Garda Keith Harrison, not any particular version of
20 those, but those actual contacts. That is what we are 10:47
21 inquiring into in relation to it. And it is not my
22 case or Tusla's case or the Tribunal's case or
23 anybody's case that is being inquired into. It is the
24 fact of the contacts and the manner in which they took
25 place. I am cross-examining this witness in order to 10:48
26 elucidate what took place and how it took place from
27 her perspective. And that is what I am doing and that
28 is why I am asking the questions which I am asking.
29 Insofar as Ms. McTeague thought or was led to believe

1 that there was anything personal or any assertion of
2 anything personal on the part of Ms. McTeague by way of
3 a personal criticism of her, I simply was clarifying
4 with her there was no personal criticism of
5 Ms. McTeague, and so far we have an acceptance from 10:48
6 Ms. McTeague that in relation to carrying out her
7 function she is utterly dependent on the nature and the
8 quality of the information that she receives. Now, the
9 fact that that information, there's some controversy as
10 to what information was received between Ms. McTeague 10:48
11 and Sergeant McGowan, is very relevant in relation to
12 this. And in relation to --

13 CHAIRMAN: Mr. Harty, I am not stopping you, but cases
14 are very much easier when people actually adopt a
15 position and follow through on a position. We are 10:49
16 making a generalised inquiry as to the way people
17 followed the Children First Guidelines in Donegal, what
18 noting is made. If there is a case to be made it
19 should be made. But I think Ms. McTeague is aware of
20 the fact that serious allegations are made against her 10:49
21 in relation to her professionalism, not in relation to
22 her decency and kindness, which is transparent and
23 which is accepted. But I think we ought to proceed by
24 you putting whatever allegations you wish to put to
25 Ms. McTeague. 10:49

26 MR. HARTY: I am not wishing to put any allegations to
27 any witness, I am wishing --

28 CHAIRMAN: Well, you may not wish to do so but
29 sometimes unfortunately, Mr. Harty, it's the duty of a

1 barrister to put unpleasant or difficult things. But I
2 am going to stop there and say nothing else.

3 99 Q. MR. HARTY: The situation, Ms. McTeague, is that the
4 next piece of information that you received was on the
5 21st October, isn't that correct? 10:49

6 A. That's correct.

7 100 Q. And on the 21st October -- firstly, how does that
8 feature in your diary in relation to it? The paperwork
9 was received by Ms. Smith, is that correct, on 16th of
10 October? 10:50

11 A. The paperwork comes down from the principal social
12 worker's office to our admin.

13 101 Q. Yes.

14 A. The paperwork comes directly to me. I create the
15 proforma that you saw yesterday, that proforma allows 10:50
16 our administrator to input it into our system. I open
17 the intake document, I complete the intake document and
18 that document is then signed off by the team leader.
19 So I don't believe Ms. Smith would have even known
20 about the referral until she got the paperwork from me 10:50
21 in relation to the completion of the intake doc.

22 102 Q. But Mr. Hone's letter was forwarded to Ms. Smith, not
23 to you?

24 A. That's correct. In the duty team, at the time, as a
25 duty worker all of the referrals, the duty referrals 10:50
26 and new referrals into the system would have come to me
27 first and not directly to Ms. Smith, albeit that they
28 are addressed to her. I was the only duty social
29 worker on the team and we had a significant increase in

1 referrals at that time, so all of the paperwork came to
2 me to allow me to input it quickly and then Ms. Smith
3 would be notified about them on receipt of that for her
4 sign-off.

5 103 Q. But in this case it wasn't an actual intake, it was 10:51
6 forwarded for information only?

7 A. Yes, but -- okay. So to be clear about the process
8 around this, once a referral is received into the
9 Social Work Department regardless of whether we are
10 going to proceed to an assessment or closing it down on 10:51
11 receipt of the referral it's still inputted on to our
12 system, so that is why it was opened. It was opened
13 anyway because I had the additional information, but
14 even if I hadn't had it would have went on the system
15 and it would have went to Ms. Smith for closure. 10:51

16 104 Q. That referral that you received detailed emotional
17 abuse?

18 A. That's correct.

19 105 Q. Can you tell me what the threshold is or the test for
20 emotional abuse? 10:51

21 A. Children First clearly outlines that for emotional
22 abuse there has to be ongoing or evidence of ongoing
23 belittlement of a child, witnessing abusive -- living
24 or witnessing -- living in an abusive environment,
25 sorry, parents' engagement with their children in terms 10:52
26 of, I suppose, you are looking at the quality of their
27 relationship, the engagement with the child, lack of
28 support, emotional warmth, and the list could go on.

29 106 Q. Yes. There is a list?

1 A. Yes, there is.

2 107 Q. And I suppose we all, if we thought about it, could
3 work out how it can happen in various different
4 circumstances --

5 A. Exactly, yes. 10:52

6 108 Q. -- and complete most of the list. I suppose emotional
7 abuse is a child protection issue, isn't that correct?

8 A. That's correct.

9 109 Q. And it's not a child -- and I appreciate that it might
10 feature in child welfare, but it's not in and of itself 10:52
11 a child welfare issue?

12 A. That's correct.

13 110 Q. Emotional abuse, if it's present, would lead to a
14 categorisation of 1, isn't that correct?

15 A. That's correct. 10:52

16 111 Q. And insofar as a referral was made to you as a result
17 of a meeting which took place that you weren't present
18 at in An Garda Síochána on the 8th October, which said
19 that a referral was to be made in respect of emotional
20 abuse, it didn't meet that classification, isn't that 10:53
21 correct?

22 A. On the basis of the information I had received I didn't
23 believe that it was emotional abuse. And it is
24 important to be clear on this point: The Garda
25 notification forms allow the Gardaí to categorise a 10:53
26 referral as physical, sexual emotional abuse or
27 neglect. It hasn't been practice, I understand, that
28 the Gardaí use the standard reporting form to the
29 Social work Department which allows them to categorise

1 the information that they are sharing with us as child
2 welfare. So the documentation that they have available
3 to them in Children First only allows them to
4 categorise it on the basis of one of those four that I
5 have outlined. If the Gardaí were using the standard 10:53
6 reporting form for notifying Tusla of referrals they
7 would be able to categorise it themselves as child
8 welfare. But the important factor here is regardless
9 of what documentation is used to refer it, and it's my
10 job as the duty worker to make a categorisation, the 10:54
11 referring Garda, referring sergeant or otherwise in An
12 Garda Síochána doesn't have that opportunity available
13 to them because of the documentation that they use,
14 they have only got one of those four boxes to tick
15 because they don't use a standard reporting form. 10:54

16 112 Q. I take it there is nothing to preclude them from using
17 the standard reporting form?

18 A. They just don't. And they currently don't. I am not
19 sure why. It would be very helpful to me indeed if
20 they did, but they don't. 10:54

21 113 Q. Because I assume the Gardaí come across, in the course
22 of their job all the time, many different incidents
23 that don't involve child protection issues but fall
24 properly into child welfare issues?

25 A. That is absolutely correct, yes. 10:54

26 114 Q. I mean, if I was to imagine the obvious situation where
27 there's dependency issues in a household, the guards
28 might be aware of it, there is no actual abuse going on
29 but it would be very valuable if the welfare services

1 were involved with the children to make sure that no
2 issues arise and to mind those children, isn't that
3 correct?

4 A. Yes, that's correct.

5 115 Q. And you don't know why the Gardaí don't use the 10:55
6 standard reporting form?

7 A. No, I can't answer to that.

8 116 Q. And I think you'll -- would you accept from the point
9 of view of a parent, that categorising the manner in
10 which they are dealing with their child as abuse is far 10:55
11 more serious than saying that by virtue of factors
12 within the family it's an issue of child welfare?

13 A. Indeed, yes.

14 117 Q. And that no parent would want it to be reported that
15 they are involved in child abuse of any type? 10:55

16 A. Certainly, yes, if it wasn't the case.

17 118 Q. Yes. And there are parents who very happily bring
18 their children in under the welfare because they know
19 they are struggling to cope, for example?

20 A. That's correct. 10:55

21 119 Q. So you yet again did the right thing when you had that
22 information, you realised this wasn't a child
23 protection issue and you categorised it as a child
24 welfare issue, isn't that right?

25 A. That's correct. 10:56

26 120 Q. And you then had your strategy meeting on the 21st?

27 A. That's correct.

28 121 Q. Can you tell me who was present at that?

29 A. Sergeant McGowan, Bridgeen Smith and myself.

1 122 Q. And in relation to that, McGowan then gave you more
2 detail, isn't that right?
3 A. That's correct.

4 123 Q. And can you tell me what detail she gave?
5 A. McGowan outlined that Ms. Simms had made a substantive 10:56
6 statement of complaint to the Gardaí, she advised that
7 she wouldn't be going into the details of that
8 statement to preserve the integrity of the Garda
9 investigation. She explained that one of the incidents
10 described by Ms. Simms involved Garda Harrison being 10:56
11 under the influence of alcohol, that there had been --
12 the children were in the house, Ms. Simms had, in an
13 attempt to protect them interest that had moved them
14 out to the car, she was leaving the family home. She
15 went back into the house, Garda Harrison was 10:57
16 threatening towards her, she described it -- it was an
17 ongoing argument, she went in to get I understood the
18 uniforms for school for one of the children. Garda
19 Harrison had grabbed her wrist and one of the children
20 had come in from the car and that the children had seen 10:57
21 her upset at that time. But they then left the house.

22 124 Q. Now, in your statement and I just -- it is for
23 clarification, page 1143, and if we go down the page
24 there, please.
25
26 "During this meeting --"
27
28 Further on down. That is perfect, thank you.
29

1 "During this meeting McGowan confirmed that Ms. Simms
2 made a statement of complaint to the Gardaí, detailing
3 an incident where the children were present. The
4 incident was reported to be a verbal disagreement
5 between Ms. Simms and Mr. Harrison. Mr. Harrison was 10:58
6 reported to be under the influence of alcohol and
7 inappropriate physical contact was made by him on
8 Ms. Simms which the children witnessed."
9

10 So, as far as your information was at that stage then, 10:58
11 the children had witnessed the physical contact?

12 A. I understood that when one of the children had come in
13 from the car that they witnessed, yes, that. That
14 should say child, not children. I stand to correct
15 that. 10:58

16 125 Q. No, no. And in relation to that, that information was
17 incorrect, on any version of events, nowhere in
18 Ms. Simms' statement does she say the children
19 witnessed any physical contact and even if that
20 statement is taken at its height and accepted as being 10:58
21 true in its details, and certainly it has been denied
22 subsequently as well that the children had ever
23 witnessed that, can I take it that that certainly would
24 affect your assessment of the case as to whether or not
25 the children had witnessed the contact? 10:59

26 A. The very nature of the fact that it had happened at
27 all, that a disagreement under the influence of alcohol
28 and physical contact had happened between a couple,
29 whether their children witnessed it or not, it would be

1 more serious to me if the children had witnessed it
2 certainly but it wouldn't remove the need for the
3 assessment.

4 126 Q. No. And I suppose can you tell me what happens if the
5 strategy meeting -- what information could have been 10:59
6 given to you at the strategy meeting that would
7 effectively stop the Tusla train from leaving the
8 station? Or, has it already left the station once you
9 have started to receive the information? Could you
10 have been given more information that would have 10:59
11 satisfied you that there was no need to look into it
12 further or do you feel that once you are given that,
13 the information that you were given on the 9th, that
14 really there was nothing you could do but proceed to
15 investigate? 11:00

16 A. Certainly not. The purpose of a strategy meeting is to
17 agree a joint strategy between the Gardaí and ourselves
18 and Tusla. The fact of the matter is, initial
19 information on the general conversation that I had with
20 Sergeant McGowan on the 9th indicated that alcohol was 11:00
21 involved and there was a physical interaction, whether
22 the children witnessed it not, between Garda Harrison
23 and Ms. Simms. Unless Sergeant McGowan had arrived at
24 that meeting to tell me well, actually, there was no
25 alcohol involved, there was no physical contact, 11:00
26 actually none of this is true, then I could have
27 stopped the train from leaving the station, as you put
28 it. But the fact of the matter is, that did occur.
29 And more importantly, when that information was put to

1 Garda Harrison and Ms. Simms they concurred that it
2 had -- an event had happened. So there was reason for
3 me to undertake my assessment in this case. The
4 purpose of the strategy meeting is to share information
5 and for us to make a joint decision on how we will
6 proceed. 11:00

7 127 Q. One thing I don't note from your notes of the meeting
8 is any reference to the fact that this was a once-off,
9 and I am just curious as to what information were you
10 given in relation to this, the frequency of such 11:01
11 incidents?

12 A. Sergeant McGowan was very clear at that meeting in
13 advising that Ms. Simms had made a lengthy statement or
14 a substantial statement of complaint, with regard to
15 her relationship with Garda Harrison. She was very 11:01
16 careful and I would say very professional in what she
17 chose to share with us. She didn't in any way
18 undermine Garda Harrison, in any way undermine
19 Ms. Simms. She only shared the information with us
20 that pertained to the incident that occurred with the 11:01
21 children as shared by Ms. Simms. And at that time in
22 my view that was what was given. Sergeant McGowan at
23 that meeting was very clear in saying look it, this was
24 the one incident that was described, that it happened
25 in front of the children or the children were party to 11:01
26 it, whatever way you want to look at that, but she was,
27 I would suggest, the consummate professional in not
28 going outside of providing information to me that she
29 didn't feel was necessary for me to understand. But

1 she made it quite clear a substantive statement of
2 complaint had been made. So even though I wasn't aware
3 of what that was about, I was aware that it was in
4 regard to their relationship. Knowing that, but
5 knowing this one incident happened in front of the 11:02
6 children, I suppose in my mind I am always coming at
7 this from a child welfare and child protection
8 perspective, how could we support this family, and I
9 believe that on the basis of knowing that, it was
10 relevant for me to proceed and to agree in the 11:02
11 decisions that we did.

12 128 Q. Ms. McTeague, the question I was asking you, and I
13 think you may have given it in your answer there: Did
14 Sergeant McGowan tell you that this was a unique
15 occurrence in terms of a row in front of a children? 11:02

16 A. She told me this was the one incident in Ms. Simms'
17 statement that the children had been party to, yes.

18 129 Q. Okay. And did she tell that you Ms. Simms had said
19 there had never been another row in front of the
20 children? 11:03

21 A. She told me this was the one incident, so I don't think
22 she needed to say there was never another one. This
23 was the one incident that Ms. Simms had described.

24 130 Q. Okay. And your recollection is very clear that there
25 was no mention of any threats to burn or to bury? 11:03

26 A. I have no recollection of the words burn or bury in my
27 discussions with Sergeant McGowan.

28 131 Q. And I think your evidence was yesterday that alarm
29 bells would have gone off instantly had those been

1 mentioned?

2 A. I would have been much more concerned, yes.

3 132 Q. Sergeant McGowan's evidence is that she did tell you
4 about these threats.

5 CHAIRMAN: Specifically we are talking now about the 11:03
6 burn and bury.

7 A. Yes. And I understand that is Sergeant McGowan's
8 evidence. I don't recollect that, that those words
9 were used. I do not. And I will be very honest, if I
10 did I would be very honest. I don't recollect that. 11:04

11 133 Q. MR. HARTY: And I think you would have noted them,
12 wouldn't you?

13 A. To be fair, the minutes of that strategy meeting are
14 scant anyway, so if they had have been mentioned, would
15 I have recorded them? Maybe I would, maybe I wouldn't. 11:04
16 But I don't recollect them being shared with me. And
17 that is the truth.

18 134 Q. The meeting then finished up, in terms of -- and I
19 presume you dealt with other cases on the day with
20 Sergeant McGowan. How long did this talk take? Just 11:04
21 sort of, if you give me the general idea of --

22 A. I couldn't, I couldn't tell you. We did discuss other
23 cases on that morning and how long any particular case
24 took to discuss I certainly couldn't estimate that, it
25 would be unfair. 11:04

26 135 Q. Could you give me a general picture? When you meet for
27 a strategy meeting how many cases come up in a strategy
28 meeting generally on average?

29 A. It would -- I suppose it's determined by number of

1 referrals I've had in from the Milford district at that
2 time, the cases that require strategy meeting, the
3 cases where obviously I am concerned from a child
4 protection point of view will take a substantive longer
5 period of time than cases where there are child welfare 11:05
6 referral, for obvious reasons.

7 136 Q. Okay. If this was a child protection issue I take it
8 you would have immediately escalated in relation to it
9 and called in Ms. Simms, for example, as a matter of
10 urgency if it was a child protection matter? 11:05

11 A. If it was a child protection matter, I would -- what I
12 did and what I would have done, is, I would have made
13 sure Ms. Simms was in a position to be able to come to
14 meet with me and would have done it in a very sensitive
15 way. It wouldn't have been going out with the sirens 11:05
16 blazing. I was aware at this stage that Ms. Simms was
17 unwell and I understood that they weren't together, so
18 that any potential risk that may have been there was
19 eliminated by the nature of the fact that they were no
20 longer in a relationship, as I understood it at that 11:05
21 time. So no, I wouldn't have been going out escalating
22 it with sirens, I would have dealt with it
23 appropriately but it would have received a much quicker
24 response from me than what it did.

25 137 Q. Yes. Your resources -- just what is the area that you 11:06
26 cover or the population that you cover in terms of your
27 own --

28 A. I am not sure if the Tribunal is familiar with Donegal,
29 but in the west central team I covered half of

1 Letterkenny and all of The Fanad Peninsula, all the way
2 out to Downings. So you are talking a substantive area
3 for one small team.

4 138 Q. And you lead that team, is that correct?
5 A. No, I was the duty social worker on that team at that 11:06
6 time.

7 139 Q. Right.
8 A. Yes.

9 140 Q. And the sort of the approximate population base or can
10 you tell me? 11:06
11 A. I can't guess.

12 141 Q. Okay. Busy?
13 A. Incredibly so. I suppose you are talking, Letterkenny
14 is a rather large town anyway as people are aware, and
15 the area that we would -- that I would have covered at 11:06
16 that time would be an area that would, I suppose, have
17 experienced a lot of poverty over those years leading
18 up to that, we had had the recession, and it was a very
19 busy period of time in the department. I was the only
20 duty social worker managing maybe 25, 30 referrals on 11:07
21 an ongoing basis, so I was -- it was necessary that I
22 was prioritising all the time what needed my attention
23 more quickly.

24 142 Q. Okay. You were told or did you understand that Garda
25 Harrison and Ms. Simms were no longer in a 11:07
26 relationship?
27 A. At the time of the strategy meeting I understood that
28 Ms. Simms was in hospital and I didn't believe they
29 were in a relationship at that stage, that she had left

1 the house on that night and they weren't together, I
2 understood that. I didn't delve into that terribly
3 deeply but I understood she was in hospital and the
4 children weren't with Garda Harrison.

5 143 Q. Okay. That in fact was not -- both of those facts were 11:07
6 incorrect. In relation to the hospital, by 21st
7 October Ms. Simms was out of hospital for at least a
8 week at that stage.

9 CHAIRMAN: Well, I don't know the extent to which the
10 Gardaí would have been inquiring into that, but 11:08
11 certainly when you come to the withdrawal of the
12 statement in January you will remember the email that
13 was sent by Inspector Goretta Sheridan mentioning
14 "they're back together!". So it seems to have come as
15 something of a surprise to the Gardaí at that point. 11:08

16 MR. HARTY: Well, it was put to the Gardaí in relation
17 to that, that the Gardaí had been -- and this is
18 matters which don't -- but in relation to the death
19 threats, the Gardaí had been in regular patrolling of
20 Mr. Harrison's home in that week, and the week after. 11:08
21 The Gardaí were aware of the fact --

22 CHAIRMAN: I know, Mr. Harty, but I don't know if they
23 know who is coming or going. I mean, if there is a
24 threat to shoot somebody and people don't take action,
25 I tend to wonder whether that is a good thing. But, 11:08
26 let's move on if we can. I just thought that detail
27 might assist, but apparently it doesn't.

28 MR. HARTY: Unfortunately it doesn't.

29 144 Q. The situation --

1 CHAIRMAN: well, it might assist me in due course.

2 MR. HARTY: Yes. That is a matter for the Tribunal.

3 145 Q. The situation is, is that Ms. Simms was out of hospital
4 at that stage, but you were led to believe that she was
5 currently in hospital at the time or was recovering 11:09
6 from being in hospital.

7 A. Yes.

8 146 Q. Was there any discussion as to what she had been in
9 hospital for?

10 A. I don't recollect that there was. I stand to be 11:09
11 correct on that but I don't recollect that there was.
12 I know -- I am not sure when I came to know that they
13 had had a bereavement, I am not sure when I came to
14 know that, but what I do know is that in that
15 discussion at that strategy meeting Sergeant McGowan 11:09
16 was concerned for Ms. Simms and was saying look it, you
17 need to give her a bit of time too recover. I think,
18 and she appreciates in her role as a liaison sergeant,
19 the impact of social services coming into families'
20 lives can be quite difficult and her suggestion that we 11:10
21 wouldn't make contact immediately was from a caring
22 perspective with regard to Ms. Simms. And I concurred
23 with that. Did I know why she was in hospital? I am
24 not 100 percent sure. I can't recollect that.

25 147 Q. But I suppose the one thing we can certain; you must 11:10
26 have been aware that she wasn't in hospital as a result
27 of --

28 A. Oh, absolutely.

29 148 Q. And we can assume from that that it would have been

1 noted that the hospitalisation wasn't directly related
2 to any domestic issues?

3 A. Absolutely.

4 149 Q. And Sergeant McGowan undertook to contact you as to
5 when it was appropriate to contact Ms. Simms? 11:10

6 A. That's correct. That was -- now, just to be clear,
7 that wasn't in relation to if she knew she was out of
8 hospital, it would be if she was aware of that
9 information. It wasn't that she was deciding she was
10 going to tell me when I could do what I needed to do. 11:11
11 It was to let me know if she knew when Ms. Simms was
12 feeling well again or regained good health. It was for
13 no other reason than that.

14 150 Q. And you at the strategy agreed to wait a while and
15 Sergeant McGowan was to contact you in relation to when 11:11
16 Ms. Simms would be well enough to be dealt with?

17 A. That's correct.

18 151 Q. And this, to a certain extent, the attitude that you
19 take in relation to it, is all premised on the fact
20 that this was a child welfare in relation to the facts 11:11
21 that you had, the one row, the children may or may not
22 have witnessed physical contact, there was alcohol
23 involved?

24 A. Coupled with being aware that there was a substantive
25 statement of complaint, yes. 11:11

26 152 Q. Yes. But what I am saying to you is that the reason
27 why you were willing to wait until Sergeant McGowan
28 contacted you to say that Marisa Simms was better, was
29 because there was no urgency in relation to the matter?

1 A. I didn't believe there was any urgency, no.

2 153 Q. Now, Sergeant McGowan has given evidence that she
3 phoned the HSE, she didn't say who or who she spoke
4 with, to advise them that Marisa Simms had withdrawn
5 her statement of complaint. Now, I take it that's not 11:12
6 your recollection?

7 A. I am aware that Sergeant McGowan had made attempts to
8 contact me, as I had made attempts to contact her in
9 the early part of January, we both missed one another.
10 So she certainly rang, I just didn't get the call or 11:12
11 wasn't available and I had rang her a few times and we
12 had missed one another.

13 154 Q. Are you the only person that she would be in contact
14 with?

15 A. Well, in relation to this case, yes, I would imagine, 11:13
16 or else if she requested to speak to my team leader,
17 but I would find that highly unlikely. I would have
18 done all my direct dealings in Sergeant McGowan in all
19 cases that I worked.

20 155 Q. Except that her sworn evidence is she phoned Tusla and 11:13
21 informed them that the statement of complaint was
22 withdrawn.

23 A. To the best of my knowledge, and my records indicate
24 this, that my first knowledge that the statement of
25 complaint had been withdrawn was on my phone call to 11:13
26 her on 27th of January, yes.

27 156 Q. Yes.

28 A. Ms. Smith may be able to assist there, whether Sergeant
29 McGowan spoke to her but it certainly wasn't me.

1 157 Q. In circumstances where you don't remember a phone call
2 in relation to anything, I am not suggesting to you
3 that you did, it's simply the evidence that Sergeant
4 McGowan gave in relation to it. You then phoned
5 Sergeant McGowan. Had this been coming up on, do you 11:13
6 have an alarm system in relation to files that sort of
7 weekly reminds you to make contact or to do things in
8 relation to them or bring them up? How did it come
9 about that you made a phone call on 27th of February?
10 A. I had a little lull in child protection referrals that 11:14
11 week and I wanted to clear out some of the child
12 welfare cases that I had on my list and the Simms
13 children were there from the end of October, from the
14 beginning of October, and I wanted it dealt with. So I
15 didn't want it sitting there anyway longer, I wanted to 11:14
16 be able to move it on and I had an opportunity to be
17 able to do that at that time.
18 158 Q. Yes. The situation is that once you then spoke to her,
19 your system noting that phone call is, I think, on page
20 293 -- or page 160, excuse me, 160. Thank you. 11:14
21 "Telephone call to Sergeant McGowan." So this is the
22 call that you made to Sergeant McGowan.
23
24 "Purpose of call: To ascertain current status
25 regarding Garda investigation so as to allow SWD to 11:15
26 proceed with investigation."
27
28 Can you explain that sentence to me?
29 A. Sure. The referral information was received from the

1 Gardaí, it had sat on my waiting list for over, at this
2 stage four to four-and-a-half months. I was contacting
3 Sergeant McGowan to ascertain if anything had
4 proceeded, if she had any further information in
5 respect of the Garda investigation that would assist me 11:15
6 in proceeding with my assessment.

7 159 Q. Now, I take it that in relation to both child welfare
8 and child protection, Tusla don't wait for Garda
9 investigations because obviously there's a living
10 breathing child at the centre of what you are looking 11:16
11 at and you are not going to wait for matters coming
12 from An Garda Síochána in relation to your action,
13 isn't that correct?

14 A. That's correct.

15 160 Q. But that sentence says: 11:16
16
17 "Ascertain current status of the Garda investigation so
18 as to allow SWD to proceed with investigation."

19
20 I would have to put it to you that that sentence would 11:16
21 suggest that, somehow, the proceeding with your
22 investigation was dependent on the status of the
23 criminal investigation.

24 A. Unfortunately the structure of that sentence lends
25 itself to allowing anybody to interpret it in that way. 11:16
26 I can categorically tell you that my phone call to
27 Sergeant McGowan that day was to have ascertain if
28 there was any other information that I needed to know
29 before I could proceed, because I was now in a position

1 to conduct my assessment. It's very important to
2 understand where there are Garda investigations and
3 social work investigations running they are run
4 parallel. We do our best and always work very closely
5 together to make sure that we don't impede on each 11:17
6 other's assessments or indeed the Garda investigation.
7 The structure of that sentence certainly doesn't lend
8 itself to what I am saying to you now, but I can
9 categorically be very clear I wasn't waiting for them
10 to do anything or waiting to be instructed by them to 11:17
11 tell me when I could do my work. I accept that the
12 sentence structure isn't -- doesn't lend itself to
13 that.

14 161 Q. "Sergeant McGowan advised that Marisa Simms made a
15 second statement to the Gardaí in the past fortnight 11:17
16 advising her that while the content of her original
17 statement was completely true she did not want the
18 matter to be investigated by the Gardaí."

19
20 Was that relevant? 11:18

21 A. Of course it was.

22 162 Q. Why?

23 A. In relation to complaints that are made to Gardaí,
24 individuals and families quite often withdraw their
25 complaints. That doesn't mean that the information 11:18
26 that they provided in the complaint didn't happen or
27 may not have happened. So, it was important for me to
28 know that because if it was the case that Ms. Simms was
29 saying I made a statement of complaint and I made it

1 all up and it was a lie and none of it was the truth,
2 but she still had said it, I needed to understand that.
3 So I need to understand is Ms. Simms standing over what
4 she had said or is she no longer standing over what she
5 had said. That would be vitally important information 11:18
6 for me to know.

7 163 Q. And what would be the difference in your approach if
8 she had said the statement was untrue?

9 A. The fact that it was said at all in the first instance,
10 that there was a substantive statement of complaint 11:19
11 made and that the children were in some way implicated
12 or impacted by what had happened, my job is to
13 determine a parent's capacity to protect, a parent's
14 capacity to understand the impact of what happens in
15 their relationships and the impact that can have on 11:19
16 their children. So if Ms. Simms was saying, for
17 example -- and we are hypothetically speaking here, so
18 if Ms. Simms was saying that no, this didn't happen,
19 none of it was the truth, but she had said it, I would
20 need to be in a position to put those questions to 11:19
21 Ms. Simms so that I could get an understanding from a
22 social work point of view. The Garda investigation,
23 they are looking for, you know they are proceeding from
24 a criminal point of view in relation to the information
25 they get. My role is very different to that. My role 11:19
26 is to make sure that the welfare of the children is at
27 the forefront of my assessment, so it would be
28 important that I would know that and it would be I know
29 in the context of which that happened.

1 164 Q. It wouldn't have altered the necessity for you to make
2 a -- to have a meeting with Ms. Simms or Mr. Harrison
3 if she had said this was now completely untrue, you
4 still would have been obliged, I take it, to inquire
5 further? 11:20

6 A. Yes, of course.

7 165 Q. Yes. Because you would need to work out what is going
8 on?

9 A. Well, I need to do my assessment. I am not taking
10 anybody else's word for it. I do my own assessment and 11:20
11 I make my own decision.

12 166 Q. Did Sergeant McGowan tell you that no criminal
13 investigation had taken place?

14 A. I don't recall Sergeant McGowan saying anything to me
15 about a criminal investigation. I wasn't interested in 11:20
16 that, I was interested in my part of my work, I didn't
17 get into that with her and I don't remember if she ever
18 said.

19 167 Q. But you did call to her to ask about what was happening
20 with the investigation in general, I presume that is 11:20
21 the way you put it rather than the criminal
22 investigation?

23 A. Yes. I would never consider using -- I wouldn't use
24 that word. Just, where are you guys at with your
25 assessment, where are you guys at with your 11:20
26 investigation, is there anything I need to know before
27 I proceed.

28 168 Q. Yes. It's just that Sergeant McGowan, despite being
29 given the job of interviewing certain witnesses, hadn't

1 done it and no criminal investigation had taken place
2 and you didn't know that?

3 A. I didn't ask for that information.

4 169 Q. But you did, you ascertained the current status of the
5 criminal investigation, of the Garda investigation, so 11:21
6 you rang generally to say what is going on, what is
7 happening on the ground?

8 A. Yes, is there anything that you guys are doing that I
9 need to know about in relation to the children. It's
10 not my business what they do with the rest of that 11:21
11 investigation, that is for the Gardaí to deal with.

12 170 Q. It goes on: "Ms. Simms is back in a relationship with
13 Mr. Keith Harrison, the person against whom the
14 original complaint was made."
15 11:21

16 was that said to you by Sergeant McGowan at that stage?

17 A. She advised me that Ms. Simms and Garda Harrison were
18 back in a relationship and that was how I structured
19 that sentence.

20 171 Q. "DSW advised that in order to progress the matter, 11:21
21 report from Gardaí on specific information on original
22 complaint would be required by Social Work Department
23 so as to progress social work investigation.

24

25 Outcome: Sergeant McGowan to forward report to duty 11:22
26 social worker as soon as possible, duty social worker
27 to send invite to Ms. Simms and Mr. Harrison in the
28 first instance. Invite to meeting to be sent to
29 Mr. Andrew Simms following receipt of a report from

1 Gardaí so as to ensure accurate information shared.
2 Donna McTeague."

3
4 And that is what should have been done, isn't that
5 correct? 11:22

6 A. That's what I had hoped would happen, yes.

7 172 Q. And that is good record-keeping, in terms of your
8 investigation it would allow for a full investigation
9 in relation to the matter and a full assessment?

10 A. That's correct. 11:22

11 173 Q. You were going to invite Ms. Simms and Garda Harrison
12 to a meeting regardless, but you still wanted to have
13 the report at the time that that was taking place?

14 A. Yes. The reason for making that request is, quite
15 often the language that is used when people are making 11:22
16 statements of complaint or sharing information with the
17 Gardaí is important, so if I am aware of that
18 information I can put that to the individuals concerned
19 and explore that in more detail. So if they were
20 coming, if any particular parent was coming to and 11:23
21 saying to me no, I didn't say that, I have the evidence
22 to say well, I have this information, this is what you
23 said previously, and we can identify any discrepancies.

24 174 Q. Just so I am clear on the manner in which things were
25 recorded here, you don't record cases -- cases are 11:23
26 recorded against an individual child, isn't that
27 correct? So if there are a number of children in a
28 family there would be an identical entry assuming there
29 is no differences between the children?

1 A. That's correct.

2 175 Q. So this would be -- this, I take it, in terms of we are
3 looking at this page, that is one of the children that
4 is referred to at the top there? I don't have the
5 unredacted version. 11:23

6 A. Yes. So what happens in this case is, the information
7 relates to both children, it's recorded under one child
8 and cloned to the second child.

9 176 Q. Cloned?

10 A. Yes. 11:23

11 177 Q. So that is where the cloning appears on some of these
12 documentation, and that's where it's referred as being
13 cloned from?

14 A. And it will also give you the clone date. It will not
15 be the date of the actual entry but it will be the date 11:24
16 it was cloned.

17 178 Q. Okay. So that meeting, you never received that report
18 from Sergeant McGowan, isn't that correct?

19 A. That's correct.

20 179 Q. She gave you more detail at that stage? 11:24

21 A. No --

22 180 Q. Phone call?

23 A. -- not on 27th, no. I didn't receive anything in
24 written form from Sergeant McGowan. So in advance of
25 the meeting with Garda Harrison and Ms. Simms I rang 11:24
26 her to request that information and she then gave it to
27 me verbally.

28 181 Q. And can you just remind me what information that was?

29 A. It's recorded there in the case note. I don't see it

1 on the screen, but it's recorded on the case note on
2 7th of --

3 182 Q. I think that may be, if I can get it, 167.

4 CHAIRMAN: What date are we at now?

5 MR. HARTY: That is the 7th of February.

11:25

6 183 Q. At the bottom of that page, it has that telephone call.
7 And that is the information that is given to you by
8 Sergeant McGowan at the bottom of that page:

9

10 "Sergeant McGowan advised the original account outlined
11 how Keith had been drinking at home and had made
12 threatening and abusive comments to Marisa in front
13 of --"

14

15 And I take it that is the name of one of the children? 11:25

16 A. It looks like it is one child. I would need to see my
17 own notes, but it looks as such, yes.

18 184 Q. It looks, in terms of the length of the blackout it
19 certainly appears to be a child's name rather than
20 children.

11:25

21

22 "Marisa said in her original statement that Keith held
23 her wrist and it was sore and threatened he would
24 ensure that she would not have the children. Marisa
25 described Keith's behaviour as a total rant. She was
26 upset and the children saw her upset as --"

11:26

27

28 And I take it, one of the children there.

29

1 "-- had come in from the car and observed some of the
2 arguments."

3
4 And just one thing I want to be clear in relation to
5 that, that's significantly more detailed in terms of 11:26
6 what was and was not witnessed by the children than the
7 earlier information that you received on 21st?

8 A. I think it's clarity. I am not sure that it's
9 significantly more information. As I said earlier in
10 my evidence, that I wasn't sure and I can't be sure 11:26
11 whether Sergeant McGowan advised that the children had
12 witnessed the argument or whether they had come in on
13 the argument or witnessed the physical encounter, but
14 there is clarity there in that information that
15 Sergeant McGowan shared. 11:26

16 185 Q. Okay. And then following on from that, you had your
17 meeting with Keith Harrison and Marisa Simms in
18 your office.

19 A. I did, yes.

20 186 Q. And you had invited Marisa Simms but that if Keith 11:27
21 Harrison wished to come along or was available to come
22 along he could also come along, isn't that correct?

23 A. No. I was clear in the letter, I don't have it in
24 front of me, but from memory from yesterday's
25 information, I asked that Keith attend also. 11:27

26 187 Q. Yes. In relation to that then, if we go to page 164,
27 that is the note, and perhaps if we stop there.

28
29 "Donna explained her role to the couple and explained

1 how she received the referral."

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Can I take it at that stage, that's when you explained that this was a child welfare issue not a child protection issue? Or, would you have explained the difference between child welfare and child protection to them?

11:28

A. Yes. In all my initial contacts with families that is how I would explain, so they understand the difference between the category that we have prioritised the referral. So I would explain the difference between both and then explain which category their referral comes under.

11:28

188 Q. I take it when you go into these meetings, it's important that you try to develop a rapport with people?

11:28

A. That's correct, yes.

189 Q. I think you have mentioned already that Sergeant McGowan was aware of the fact that any visit from child protection, child welfare services, can be distressing for a family?

11:28

A. I think we are all aware of that when we work in the business that we are in, and in particular the Garda liaison sergeants are very aware of that. And in my role it's really important that that early contact is not a difficult one for families where that can be possible.

11:28

190 Q. And I think the situation is that you are mindful that they need to trust you or insofar as you can get them

1 to trust you in relation to be open with you and to
2 realise that while this is -- some of them might be
3 unwanted by the family, you are very much -- your goal
4 is to develop a rapport with people so that you can
5 properly assess the situation and properly deliver 11:29
6 whatever supports are necessary, isn't that correct?
7 A. That's correct.
8 191 Q. And that doesn't involve barging in to somebody's home
9 and saying I am a social worker, I am going to tell you
10 what to do now? 11:29
11 A. That's correct.
12 192 Q. You do that subtly and softly, to try to make sure that
13 everyone is as open as possible and then yet again if
14 there is a prescription at the end of your visit, to
15 ensure that they are cooperating with that in the best 11:30
16 interests of their children?
17 A. That's correct.
18 193 Q. And insofar as simple ways to do that, you could say,
19 thank you very much, I am sorry you had to take time
20 out of your day today to come in here, that wouldn't be 11:30
21 an unusual thing to say to somebody, I take it?
22 A. It's certainly not language that I would use, but
23 people have different ways of reassuring others, but
24 that is not language that I would use.
25 194 Q. what you say? 11:30
26 A. I would thank them for coming in, I would show them my
27 ID, confirm who I am and explain what it is that I do
28 and then explain why they are here.
29 195 Q. And would you acknowledge the intrusion into their

1 family life?

2 A. No, I don't think I would. I don't believe I would.
3 No, is the short answer to that question. No.

4 196 Q. No.

5 A. They are there for a reason. So, my job is to make 11:31
6 sure that they know why I am there, they know why they
7 are there and that we can work together to bring this
8 to a resolution, whatever the situation may be. Might
9 I say, yes, it's difficult sometimes, a social worker
10 being involved in your life, but we are here to help 11:31
11 you, certainly I might make that comment.

12 197 Q. You'd acknowledge that there might be the difficulty in
13 relation to social workers being involved in your life?

14 A. Depending on the nature of the case, yes.

15 198 Q. Yes. And you'd make it clear that you want to make it 11:31
16 as easy as possible in relation to people?

17 A. Again, depending on the nature of the case, yes.

18 199 Q. Yes. And you fully acknowledge, and I think you fully
19 appreciate, that unless somebody has come to the social
20 services looking for assistance with their children, 11:31
21 for the most part on initial contact people are, shall
22 we say, at best nervous as to what is going to go on
23 and often scared, worried, in relation to what can
24 happen, isn't that correct?

25 A. That's correct. 11:32

26 200 Q. And it's the nature of a visit with your services that
27 it is going to be distressing, no matter what you do,
28 the fact that the visit is taking place, it starts off
29 as being distressing until you can explain to people

1 where you are going and what you are doing, because
2 people will be --

3 A. That may be, yes.

4 201 Q. Yes. And insofar as that reassurance had to be given,
5 as I have already said, both Garda Harrison and 11:32
6 Ms. Simms are clear that you did a very good job in
7 reassuring them that this was not going to be a problem
8 and that you were professional in relation to the
9 matter and courteous at all times and friendly and
10 helpful. And they took it, and I think both of their 11:33
11 evidence was, that you were apologetic for being there.
12 But can I suggest that that might be a situation
13 whereby you are saying to them, I am sorry we have to
14 do this, I am sorry if this is causing you upset and
15 that wouldn't be an unreasonable thing to say? 11:33

16 CHAIRMAN: So is the question that Ms. McTeague
17 apologised for being there?

18 MR. HARTY: well, I am exploring that, sir.

19 CHAIRMAN: No, I know, but I mean there's several
20 propositions wrapped up in that question, Mr. Harty, as 11:33
21 you will appreciate. So, did you apologise for being
22 there?

23 A. I did not.

24 202 Q. MR. HARTY: Were they upset at you being there -- at
25 being there? 11:33

26 A. I suppose I can't speak to how they felt, but what I
27 can say is, they both came to the meeting, I sent them
28 a letter, they both came to the meeting, they both
29 engaged with me at the meeting. There was some

1 upsetting information discussed during that meeting.
2 were they upset? I think it was more about what they
3 were talking about and I don't believe I upset them in
4 any way, nor are they saying that I did at that
5 meeting.

11:34

6 203 Q. You see, the best example I can think of my own
7 experience is going to the dentist. When the dentist
8 is about to inject you, they will invariably say I am
9 sorry, there's going to be a bit of pain here now. He
10 is not apologising for what he is doing, but he is

11:34

11 reassuring people in his words in relation to matters?
12 A. Okay. This is really important, it's really important
13 to me. I didn't apologise for the work that I was
14 doing, I didn't apologise for inviting them into my
15 office, I didn't apologise for putting the referral
16 information to them, and that is the inference that is
17 being made about my practice. It's the inference that,
18 I suppose, is the central terms of reference of this
19 Tribunal. I did not apologise. I might have said I am
20 glad you have come in, but I didn't apologise for my
21 role or apologise for doing my job.

11:34

11:34

22 CHAIRMAN: And you didn't apologise when you went to
23 their home either?

24 A. No, I did not. I was clear in why I was there. And it
25 was clearly evident why I was there. So I didn't
26 apologise. And that is the inference that you are
27 making, and it's not -- I don't agree.

11:35

28 204 Q. MR. HARTY: Sorry, Ms. McTeague, when the dentist
29 injects you to give you a painkiller is he actually

1 apologising or is he simply reassuring you in relation
2 to things?

3 CHAIRMAN: No, but I mean, the dental analogy is a very
4 good one, Mr. Harty, but she is absolutely clear she
5 didn't apologise. 11:35

6 205 Q. MR. HARTY: The reason why I am asking this, it has to
7 do with bedside manner and it's undoubtedly the case,
8 Ms. McTeague, that you have an excellent bedside
9 manner. Because there is no question but that at all
10 times you put Garda Harrison and Ms. Simms at their 11:35
11 ease to the extent that they were able to be open with
12 you about some deep intimate details in relation to
13 their relationship. So there is no doubt in relation
14 to that. And I am not saying to you that you believed
15 you were apologising; I am just saying that you used 11:36
16 phraseology in such a way as to put them at ease,
17 acknowledging the fact that it was an intrusion, which
18 you accept it is an intrusion into a family life for a
19 social worker to be present.

20 CHAIRMAN: But again there's two questions wrapped up 11:36
21 there, and maybe we could just split them up. I think
22 you do accept that it is difficult for people to have a
23 social worker visiting their home?

24 A. Yes, that's correct.

25 CHAIRMAN: Yes. And then the second question is: In 11:36
26 terms of putting people at ease, what strategy did you
27 adopt at the office meeting, at the home meeting?
28 Maybe you'd just tell us that.

29 A. Okay. So, in order to -- in this case in order to, I

1 suppose as you refer Mr. Harty, to develop a rapport
2 with the family I explained the difference between a
3 child protection referral and a child welfare. And in
4 allowing them to understand that this was categorised
5 in the Department as a child welfare referral that was 11:36
6 me putting them at ease. I didn't apologise for that.
7 That was me putting them at ease and that is the manner
8 in which I went about that in that meeting.

9 206 Q. MR. HARTY: Are you saying to me that somebody would be
10 put at ease to know it was simply a child welfare 11:37
11 referral rather than a child protection referral?

12 A. Yes. Because I think when you think about social
13 services being involved in your lives, unfortunately
14 the perception is we come and take your children away
15 or we come and make life very difficult for you, so 11:37
16 being able to reassure them, look at, this is not --
17 it's not top priority, it's not a child protection
18 referral, it's a child welfare referral, that in itself
19 immediately removes that first sense of anxiety, in my
20 view. And I would use this strategy with many families 11:37
21 that I work with and it's helpful for them to
22 understand, so we are both on the same page from the
23 beginning, that they clearly understand where I am
24 coming from and I may need some information to help me
25 make a decision, how we are going to move forward 11:37
26 together.

27 207 Q. I think both Garda Harrison and Ms. Simms were of the
28 view that the language that you used in relation to it
29 was apologetic. I am not saying that you yourself

1 didn't believe why you should be there or dealing with
2 it, but they were of the view that the language that
3 you used was apologetic, and I have put that to you,
4 that that is what you said. And I put to you that it
5 is a perfectly reasonable thing for a social worker to 11:38
6 say, 'I am sorry we have to go through this, I am sorry
7 you have to be here', would that be an unreasonable
8 thing for a social worker to say?
9 A. It wouldn't be an unreasonable thing for a social
10 worker to say. I do not believe I said that. 11:38
11 208 Q. You then proceeded on that meeting to have, can I
12 say -- how long did the meeting take, approximately?
13 A. I would say less than half an hour.
14 209 Q. Less than half an hour?
15 A. Half an hour, max. 11:38
16 CHAIRMAN: Mr. Harty, can I inquire, is there any
17 challenge to what is put down on page 160 -- yes, page
18 160, as to --
19 MR. HARTY: We are coming on to that, I think, so we'll
20 be -- 11:39
21 CHAIRMAN: Sorry, I beg your pardon, I am getting the
22 wrong page number now, but the home visit is 164. Is
23 there any challenge to the detail of that 164, 165,
24 166?
25 MR. HARTY: None. No challenge at all. 11:39
26 CHAIRMAN: So I can take it that your client accepts
27 every single bit of that is true?
28 MR. HARTY: Well --
29 CHAIRMAN: Because that is what this process is about,

1 trying to sort out what are people saying, what are
2 they saying is untrue. So --

3 MR. HARTY: Well, then I am going to need to go into it
4 if I am being held to every single letter in relation
5 to it. There are -- 11:39

6 CHAIRMAN: Mr. Harty, Mr. Harty, you are not being held
7 to every single letter. We are now at a
8 cross-examination that has lasted an hour and forty
9 minutes, and that is fine, that is not a problem, but
10 the problem is the lack of specificity. I mean, you 11:39
11 are putting to the witness that she apologised at the
12 meeting which took place in the office on the 7th
13 February.

14 MR. HARTY: Yes.

15 CHAIRMAN: Now, you have an opportunity to say whether 11:40
16 that happened or not, and you have already said it
17 didn't happen, as I understand, Ms. McTeague?

18 A. That's correct.

19 CHAIRMAN: That it is not your style to go around
20 apologising for yourself, because you are a 11:40
21 professional who has got work to do, and that is it?

22 A. That's correct.

23 CHAIRMAN: And it's not like giving someone an
24 injection at a dentist where you say 'I am sorry, there
25 is going to be a bit of pain'. The reality is, you 11:40
26 have to be there?

27 A. That's correct.

28 CHAIRMAN: And were therefore not apologising, you are
29 clear about that?

1 A. I am absolutely clear about that.

2 210 Q. MR. HARTY: Just in relation to the note, the
3 information that you put to Garda Harrison and Marisa
4 Simms was the information that had been relayed to you
5 by Brigid McGowan on the morning of that -- 11:40

6 A. That's correct.

7 211 Q. -- meeting. And did you relay that information in
8 detail? would you have -- I take it you didn't relay
9 it verbatim?

10 A. No, I did not. 11:41

11 212 Q. But as a result of that, you would have put to them
12 that there had been a row, I take it?

13 A. Yes.

14 213 Q. That there had been drink involved on Garda Harrison's
15 part? 11:41

16 A. That's correct.

17 214 Q. That -- would you have used the word 'rant', or can you
18 say whether you used the word 'rant' or not?

19 A. I don't recall using the word 'rant'. I may have had,
20 but I don't recall. 11:41

21 215 Q. And that there had been physical contact?

22 A. Yes. I specifically mentioned grabbing the wrist.

23 216 Q. Okay.

24 A. Yes, I did.

25 217 Q. And you asked Marisa if that was true? 11:41

26 A. I did, yes.

27 218 Q. And she said the incident did happen?

28 A. Mm-hmm.

29 219 Q. She seems to have clarified that only one of the

1 children had witnessed it, but it appears to have been
2 clear from your note of the call earlier in the day
3 that you already were aware of that fact?

4 A. I was, yes. And I suppose the importance in that is
5 that while I was aware that only one of the children, I 11:42
6 wanted to see would Ms. Simms or Garda Harrison correct
7 me because I said "children", so it was important that
8 I was clarifying accurate information from them. It's
9 also important just on this point to say that Garda
10 Harrison very much took responsibility for what had 11:42
11 happened, accepted his part in it, and they gave
12 contextual information to explain what had happened,
13 and I took them at face value and accepted that they
14 understood why I was there and the importance of it at
15 that stage. 11:42

16 220 Q. And you got quite a lot of context in relation to the
17 background and what had been going on in their
18 relationship at the time?

19 A. I did, yes.

20 221 Q. And I take it you would have explored, for example, to 11:43
21 make sure that those, shall we say, elements which
22 could have given rise to this situation, where they
23 stood in respect of those elements now?

24 A. Yes. They advised me they were back in a relationship
25 and they recently had got engaged. 11:43

26 222 Q. Yes. And you were aware that, for example, there was
27 an awareness from Garda Harrison in relation to the
28 drink issue?

29 A. Yes.

1 223 Q. I take it you weren't given any impression of whether
2 or not the family support system had perhaps improved,
3 or anything else; it doesn't appear from your notes?
4 A. No.

5 224 Q. You told them that you were going to have to contact 11:43
6 Mr. Simms?
7 A. Yes, I did.

8 225 Q. And they were -- I think they clearly understood why?
9 A. They did, yes.

10 226 Q. I think you were very satisfied -- would it be fair to 11:43
11 say you were satisfied, from the point of view of the
12 meeting that took place in the office, that these were
13 people who understood their parenting responsibilities?
14 A. Yes, I think as my analysis at the end of that case
15 note indicates, I accepted that -- it was my assessment 11:44
16 of Garda Harrison and Ms. Simms at that time that they
17 appreciated, they admitted what had happened, they
18 acknowledged the situation, they provided contextual
19 information. Garda Harrison, I felt, was -- took
20 responsibility to some degree in acknowledgement of 11:44
21 what -- his misuse of alcohol at that time, Ms. Simms
22 acted protectively with regard to the children, and
23 they demonstrated insight in their responses that they
24 were providing to me and it was my view that I didn't
25 believe there was any further ongoing child protection 11:44
26 concerns -- or child welfare concerns at that time, and
27 my analysis indicates that at the end of that case
28 note.

29 227 Q. And I think that would explain why it wasn't that you

1 were going to come and visit the children, it was that
2 you may come and visit the children?

3 A. Yes, I said I may come to visit the children and I
4 asked for Ms. Simms' telephone number, which I took
5 from her. 11:45

6 228 Q. But you didn't say you would come and visit the
7 children, you said you may come and visit the children?

8 A. Whether I said 'may' or 'would', and in order to
9 complete an initial assessment, when I have met with
10 parents like this and when an incident has been 11:45
11 accepted that it has happened, our standard operating
12 procedures indicate that our -- we need to see children
13 so the children's voices are heard in the first
14 instance, but also for me to observe the relationship
15 between the children and Ms. Simms and Garda Harrison 11:45
16 in this instance. It's -- I suppose the very essence
17 of, I understand, why we are here, is whether I was
18 directed, or otherwise, to complete that home visit.
19 And we can go around in circles and talk about this for
20 the next hour, but I want to be very clear about this: 11:46
21 if I used 'may' or 'could' I don't know because I don't
22 remember the structure of my sentence at that time, but
23 I would have -- I would have known that I needed to
24 complete a home visit, and that is exactly what I did.

25 229 Q. The situation in respect of the referral in 2012 -- 11:46
26 A. Yes.

27 230 Q. -- that didn't require a home visit?

28 A. That's correct.

29 231 Q. So did the standard operating procedures change between

1 February 2012 and February 2013?

2 A. Ms. Coll gave evidence --

3 232 Q. 2014, I'm sorry.

4 A. Ms. Coll gave evidence already to the Tribunal
5 indicating that when -- it was an anonymous referral. 11:46
6 Ms. Simms and her -- and Mr. Simms, the children's
7 parents, at the time indicated that the information in
8 the referral wasn't relevant, it wasn't an issue.
9 There was nothing admitted to or no evidence to
10 substantiate the original referral. Ms. Coll's 11:46
11 decision in that regard, in my view, was an accurate
12 decision to make. In this case, the substantive
13 difference is that Garda Harrison and Ms. Simms had
14 confirmed the information in the referral, they had
15 confirmed what had happened, and therefore I needed to 11:47
16 complete a home visit to the children.

17 233 Q. Can you direct me to the standard operating procedure?

18 A. I don't have it here. I don't know if it's in the
19 documents. If it is --

20 234 Q. I haven't seen it and I have never come -- I didn't 11:47
21 know there was such a document.

22 A. It's good practice in the completion of an initial
23 assessment to make contact with children, especially in
24 situations where parents, in this case Garda Harrison
25 and Ms. Simms, confirmed that the referral information 11:47
26 was indeed accurate. So comparing this previous
27 referral and Ms. Coll's assessment, you are not
28 comparing like with like; you are comparing apples with
29 oranges, because the previous referral, there both

1 parents indicated that the referral information wasn't
2 substantive, that there wasn't any concerns and it
3 wasn't confirmed, so there was no basis and no need in
4 which to proceed to do that. In this case, the
5 substantive difference is that Garda Harrison and
6 Ms. Simms had indicated that the referral information
7 was accurate, I needed to see the children.

11:48

8 235 Q. But can I suggest to you, as you accept, that simply
9 because there is a meeting with the parents, it doesn't
10 mean that there has to be a meeting with the children?

11:48

11 A. On the basis of your comparing with Ms. Coll's
12 referral, yes.

13 236 Q. And the situation is that there is, in relation to
14 that, a matter of a judgement call that has to be made
15 in relation to it and some consideration that has to be
16 made in relation to whether or not that visit has to
17 take place, isn't that correct?

11:48

18 A. Yes, in all situations you are -- I suppose, to be
19 clear, in completion of an initial assessment it is
20 best practice to see the children. Again, it depends
21 on the nature of the referral, so yes, there is an
22 element of judgement in that, but in 99 percent of
23 cases you are going to see the children once you've
24 initiated an initial assessment. There may be cases
25 where, especially in anonymous referrals, which we
26 quite often get, you may not proceed to do that; you
27 may clarify the information with the parents and not
28 proceed to move on. In this case, as I have already
29 explained, it was necessary for me to do that.

11:48

11:49

1 237 Q. But you didn't, in fact, believe that at the end of
2 this assessment, that it was going to be absolutely
3 necessary, isn't that correct?

4 CHAIRMAN: well, as I understand the allegation that is
5 going to be -- that is made, is that, at the end of 11:49
6 this meeting, Ms. McTeague said, I think it's highly
7 unlikely that I am going to need to visit, and isn't
8 that the case? Isn't that the case that your client is
9 making?

10 MR. HARTY: well, unlikely, I think, rather than highly 11:49
11 unlikely.

12 CHAIRMAN: well, did you ever say, it's unlikely I'm
13 going to visit?

14 A. No, I did not.

15 CHAIRMAN: And are you sure about that? 11:49

16 A. I asked Ms. Simms for her number. I wouldn't have
17 needed to take her number if I didn't -- what I did
18 was, and I think it's important, the interpretation
19 here: I -- my analysis at the end of that case note
20 clearly indicates my assessment of the family at that 11:50
21 meeting. I didn't believe there were any ongoing child
22 welfare/child protection concerns, and I did share that
23 with Garda Harrison and Ms. Simms at the end. I was
24 satisfied that they had insight and understanding into
25 what had happened. I certainly did all of that. And I 11:50
26 was very clear with them, in an attempt to reassure
27 them, or otherwise. But I did not say it was unlikely
28 that I was going to need to see the children.

29 238 Q. The situation is, though, Ms. Wallace accurately

1 recorded what you said and you explained that you may
2 have to visit. It is not saying that you will visit,
3 is it?

4 CHAIRMAN: well, is the allegation withdrawn then?

5 MR. HARTY: The allegation isn't withdrawn. Two people 11:50
6 have a conversation. Two people generally -- often
7 have a different understanding of what was said or
8 recollection of what was said. In relation to this,
9 Ms. McTeague was of the view that she was conveying,
10 that she was definitely going to visit. Now, that was 11:50
11 understood by Garda Harrison and Ms. Simms for whatever
12 reason, because of the use of the word 'may', that she
13 might not --

14 CHAIRMAN: The allegation always was that, at the end
15 of the office visit, that Ms. McTeague said something 11:51
16 to the effect of, it is unlikely that I will have to
17 visit you at home or I probably won't have to visit you
18 at home. It's not a question of understanding. That
19 was the allegation, and the allegation needs to be put.

20 MR. HARTY: Okay. 11:51

21 239 Q. Well, I will put it to you. Did you say that it was
22 unlikely that you were going to have to visit?

23 A. I did not.

24 240 Q. Did you say that it is likely that you would have to
25 visit? 11:51

26 A. I asked Ms. Simms for her telephone number. The
27 purpose of doing that was to arrange the visit. Did I
28 use the word 'unlikely'? I definitely did not.

29 241 Q. Did you use the word 'likely'?

1 A. I would need to see the children. Ms. Wallace may be
2 right, I may have said I may need to see the children,
3 but I never used the word 'likely' or 'unlikely'. That
4 is -- I am categorical about that, absolutely.

5 242 Q. But you accept that saying, I may need to see the 11:52
6 children does not mean I will need to see the children?

7 A. Again, I will be very clear about this: in the
8 completion of our assessments, it is important that I
9 see the children. I asked Ms. Simms for her number. I
10 didn't use the word 'likely' or 'unlikely'. If I said 11:52
11 I will or I may, maybe I did, I can't be sure about
12 that. But I can categorically tell you I did not use
13 the word 'unlikely'.

14 243 Q. Was Ms. Coll engaging in best practice when she didn't 11:52
15 carry out an assessment of the children?

16 A. I will not be commenting on my colleague's practice. I
17 have already explained that Ms. Coll gave evidence to
18 the effect that the information in that referral was
19 unsubstantiated.

20 244 Q. So it is not the case that in every referral you have 11:52
21 to see the children, isn't that correct?

22 CHAIRMAN: No, but we have had that, Mr. Harty, we have
23 been over that, and, as I understand it, quite often
24 anonymous allegations are received. They are not
25 treated with the same degree of, I suppose, weight as 11:52
26 allegations made by people who are prepared to stand
27 over them, but investigations are made, and in some of
28 those a home visit isn't necessary. I mean, it was
29 explicitly stated that to compare an anonymous

1 allegation where there has been a chat with the parents
2 and things are sorted out, with a case where there is a
3 substantive complaint by a person, is to compare an
4 apple with an orange. I really think we really need to
5 move on now and we need to move on. You have put the 11:53
6 allegation, it's been answered. We need to move on to
7 the home visit and whatever allegations are in relation
8 to the home visit.

9 MR. HARTY: I need to deal with matters in relation to
10 this, which is that Ms. Coll found it necessary, after 11:53
11 the apparently not seriously-considered anonymous
12 allegation, to contact teachers and doctors in relation
13 to the children.

14 CHAIRMAN: Well, you can certainly ask about teachers
15 and doctors if you feel you should. 11:53

16 MR. HARTY: I am going to ask the question, sorry, sir.

17 245 Q. The situation is, Ms. Coll was -- found it necessary,
18 after her anonymous reference, to contact teachers and
19 doctors, isn't that correct?

20 A. That's correct. 11:54

21 246 Q. She didn't treat the anonymous letter as entirely
22 vexatious. She did investigate it further than simply
23 meeting with the parents, isn't that correct?

24 A. She completed preliminary inquiries, yes.

25 247 Q. And her preliminary inquiries were dealt with by way of 11:54
26 contact with other professionals who were dealing with
27 the children, isn't that correct?

28 A. That's correct.

29 248 Q. So she didn't just simply say, this is an anonymous

1 allegation, therefore I am not going to treat it
2 seriously. She did treat it seriously and she did
3 investigate it, isn't that correct?

4 A. She completed her initial assessment, yes.

5 249 Q. Yes. And her initial assessment didn't require a visit 11:54
6 to the children, isn't that correct?

7 A. That's correct.

8 CHAIRMAN: So the question is, why did your initial
9 assessment require a visit to the children?

10 A. Because in my discussion with Garda Harrison and 11:55
11 Ms. Simms they confirmed that the information in the
12 referral had indeed happened, that the children did --
13 were party to the argument or came in on -- one of the
14 children came back into the house. It did occur.
15 Ms. Simms had confirmed to me when asked twice in that 11:55
16 interview, are you confirming that the information that
17 you shared with the Gardaí is correct? And twice she
18 said yes. That is the basis of my visit to the
19 children in this case at that time.

20 250 Q. MR. HARTY: But you could have looked with contacting 11:55
21 doctors or teachers in respect of the children,
22 couldn't you?

23 A. Yes, I could.

24 251 Q. You could have contacted other -- Mr. Simms. I know 11:55
25 you contacted him afterwards, but in terms of the
26 assessment, you could have contacted him to ask him how
27 he felt the children were being dealt with and looked
28 after. He shared custody of the children, isn't that
29 correct?

1 A. That is my understanding, yes.

2 252 Q. And you could have done all of that, couldn't you?

3 A. I could.

4 253 Q. And that is another way to satisfy yourself in relation
5 to the well-being of the children without necessitating 11:56
6 a home visit, isn't that correct?

7 A. That is not correct.

8 254 Q. Why is that not correct?

9 A. The information that was shared by Garda Harrison and
10 Ms. Simms at my meeting indicated that the referral 11:56
11 information was accurate to some degree. Secondly, we
12 live in a small county. Garda Harrison is a guard in
13 our area, Ms. Simms is a teacher in our area. I could
14 certainly have phoned around schools, GPs,
15 public-health nurses and other people to inform my 11:56
16 assessment. It was my judgement at the time, on the
17 basis of the information that both Garda Harrison and
18 Ms. Simms shared with me, that they demonstrated
19 insight, understanding and provided contextual
20 information that I was at that stage satisfied with. 11:56
21 In contacting schools, public-health nurses or GPs, I
22 am drawing attention to the fact that Garda Harrison
23 and Ms. Simms are known to the Social Work Department,
24 I made a judgement call that I felt if I saw the
25 children directly, I wouldn't be causing them any 11:57
26 distress or upset in doing so, that it was better for
27 me to do that than to have -- phoning around other
28 professionals in a small county where people are known.
29 That was my decision to make. I made it because I felt

1 it was the best thing to do for this family at that
2 time, and that is why I did my home visit. And even if
3 I was going to contact all those services, I would have
4 done my home visit anyway, that would have been
5 additional information, and I chose not to do that. My 11:57
6 home visit was happening anyway.

7 255 Q. But it wasn't happening, because you said you may have
8 to visit?

9 CHAIRMAN: I know, but we have been over that,
10 Mr. Harty. I really feel that this entire matter is 11:57
11 now exhausted, and I think we really should move on to
12 the home visit and any allegations that need to be put
13 in relation to the home visit as recounted to Garda
14 Harrison by Marisa Simms, the conversation at the door
15 and the conversation in the kitchen, as indeed was 11:58
16 there a conversation in the kitchen. Those are the
17 things I need to know about.

18 MR. HARTY: Yes.

19 256 Q. The situation then, you returned, you inputted this
20 information, isn't that correct, into your system? Was 11:58
21 it Ms. Wallace who would have typed that in or you
22 entered it into the system?

23 A. I entered it in. Ms. Wallace typed up the notes,
24 emailed them to me, I added the analysis in, attached
25 it to RAISE, and shredded the document that Ms. Wallace 11:58
26 had sent me.

27 257 Q. You didn't contact -- why didn't you arrange the home
28 visit on the day?

29 A. I didn't have my diary in the room, for starters, and I

1 also didn't know when I was going to be available to be
2 able to do that.

3 258 Q. But it was in your office?

4 A. No, it wasn't -- it was in our building, yes, but it
5 wasn't in my office, no. 11:59

6 259 Q. But you waited for -- on what day did you make the
7 phone call to arrange the home visit?

8 A. On the 14th.

9 260 Q. So you waited a week to arrange the home visit?

10 A. I did, yes. 11:59

11 261 Q. why?

12 A. I obviously had other issues in my diary that needed
13 more prompt attention at that stage than the visit to
14 just confirm what I already believe would be a case
15 closure at that stage, so other cases took priority. 11:59

16 262 Q. Did you report in relation to what your -- what you put
17 on the RAISE system to anybody? Did you contact
18 Ms. Smith?

19 A. Ms. Smith would have been aware after my meeting with
20 Garda Harrison and Ms. Simms that I accepted and 11:59
21 believed that the case didn't need to progress any
22 further, that we would be closing it after a home visit
23 would be done.

24 263 Q. And what further conversation did you have with
25 Ms. Smith? 11:59

26 A. As I said, I had a conversation with Ms. Smith directly
27 after the meeting. Ms. Smith was satisfied with my
28 assessment on the basis of what I shared with her, and
29 we agreed if there wasn't anything further arising from

1 the home visit with the children, that the case could
2 close to the department.

3 264 Q. Did yourself and Ms. Smith discuss anything about the
4 referral mechanism?

5 A. No. 12:00

6 265 Q. Ms. Smith hadn't been present in your -- for your phone
7 conversation with Sergeant McGowan. I take it you went
8 into detail in relation to what Sergeant McGowan had
9 told you, in your discussion with Ms. Smith?

10 A. I advised her that I had followed up with Sergeant 12:00
11 McGowan that morning and that I had put the information
12 to Garda Harrison and Ms. Simms. I don't recollect
13 going into any specific detail with her. I suppose in
14 my role as a social worker, as a duty social worker,
15 the relationship between myself and my team leader is 12:00
16 an important one, that Ms. Smith is satisfied and I
17 suppose appreciates my competence and my ability to
18 make good decision-making on the basis of the
19 information I have, so I certainly don't go into the
20 specific detail of all cases with her. I will give her 12:01
21 a summary of the information that I have, the
22 assessments that I have done, the information that I
23 have gathered and my intended outcome. So, no, I don't
24 recall going into specific information with her.

25 266 Q. But she was present at the first strategy meeting? 12:01

26 A. She was, yes. So when I -- I have no doubt I would
27 say, look at, I put the information to Garda Harrison
28 and Ms. Simms and they concurred that an issue had
29 arisen, it did occur, and they provided a number of

1 pieces of information in the context that they were in
2 at the time, and I remember expressing empathy, given
3 the situation that they had experienced, and there was
4 what I felt at the time was a valid explanation for
5 what had happened. 12:01

6 267 Q. Sorry, in relation to the situation, I take it that was
7 the loss of the child?

8 A. Yes, and I suppose the difficulties in terms of
9 acceptance from extended family and the wedding
10 situation. So from the information that I had, I 12:01
11 certainly took Garda Harrison and Ms. Simms on the
12 basis of the information they provided to me.

13 268 Q. Yes. And you then phoned Ms. Simms. She seemed to
14 have thought that it was -- the evening of the meeting
15 in the office was her recollection, but, in fact, that 12:02
16 took place on the 14th, isn't that correct?

17 A. That's correct.

18 269 Q. And you arranged the meeting for the -- was it the 16th
19 of February?

20 A. 19th. 12:02

21 270 Q. 19th. What did you say in the phone call to Ms. Simms?

22 A. I don't recall exactly what I said. I was ringing up
23 with -- the purpose of the phone call was to arrange a
24 visit to see the children at a time that was suitable
25 both to Ms. Simms and Garda Harrison. I didn't -- 12:02
26 inference has been made to the Tribunal that I made
27 reference to having been told by my line manager that I
28 had to visit or that there was contact from the Gardaí.
29 That conversation never took place. I never -- because

1 that never happened, I never would have been saying it
2 to Ms. Simms.

3 271 Q. And what I am trying to explore in relation to this,
4 yet again the information gets garbled from one side to
5 another. And would you have at that stage, for 12:03
6 example, discussed with Ms. Simms the fact that the --
7 the way that this referral had come about?

8 A. Not at that stage, because I had already explained that
9 information in my meeting with, when I met with them on
10 the 7th. 12:03

11 272 Q. Would you have explained to Ms. Simms, for example,
12 discussions that were had with Sergeant McGowan about
13 the withdrawal of her statement?

14 A. No, I would not.

15 273 Q. That was your first opportunity to speak with Ms. Simms 12:03
16 on her own, isn't that correct?

17 A. That's correct.

18 274 Q. Did you ever relay that fact of the withdrawal of the
19 statement to Ms. Simms?

20 A. It may -- I am not sure if I mentioned it to them in 12:03
21 the meeting that I had had, look at, you made a
22 statement of complaint to the Gardaí and you are
23 standing over that and you have since withdrawn it, I
24 don't know whether I mentioned that. That wasn't the
25 essence of the part that was important to me. What's 12:04
26 important to me is did this or did this not happen.
27 So, no, in that phone call to Ms. Simms I did not speak
28 about the statement of complaint, the Garda referral
29 system or otherwise. The purpose of the call was to

1 arrange a visit.

2 275 Q. Okay. Could you have been in any way apologetic about
3 the fact that what you had expressed as being a
4 conditional, a may, in your meeting of the 7th of
5 February, was now a definite? 12:04

6 A. I don't recall being apologetic for any part of my
7 practice in this case. If I said, look, I need to come
8 out to see the children, yes, I have no doubt I did
9 that when I was arranging a visit. I don't remember
10 apologising for anything at any point in time. Maybe, 12:04
11 you know, did I try to reassure them, I am going to
12 come to see the kids but I am satisfied that this is
13 going to close anyway but I am going to need to come to
14 see the children, possibly, yes. So I am not going to
15 say that Ms. Simms is lying. I am -- it certainly 12:04
16 wasn't apologising.

17 276 Q. I understand. I understand that you didn't feel you
18 were apologising, albeit that you might have been
19 saying something?

20 A. The interpretation may have been otherwise, but it 12:05
21 certainly wasn't apologising for why I was there or
22 what I was doing.

23 277 Q. Yes. You then came out to see the children, isn't that
24 correct? Are there any notes of that meeting? Did
25 Ms. Wallace travel with you on that occasion or you 12:05
26 travelled by yourself?

27 A. I travelled by myself. There are case notes of that
28 meeting recorded on --

29 278 Q. On the system. But there is no standalone notes like

1 there was in the meeting in your office because --

2 A. There is, there is a case note recorded. It's there.

3 I am not sure what page it's on.

4 279 Q. 162 is where it's noted on the system in the case

5 recording summary, but there was no separate notes 12:05

6 recorded, I take it?

7 A. No, that is a record of the visit.

8 280 Q. That is the record.

9 A. Yes.

10 281 Q. -- and as I say, you didn't have somebody in the office 12:05

11 with you to take a minute, as such --

12 A. No.

13 282 Q. -- which you would have had with Ms. Wallace on the

14 previous occasion?

15 CHAIRMAN: So it is 162, isn't it? 12:06

16 MR. HARTY: It is 162, yes.

17 MR. MCGUINNESS: On to 163.

18 283 Q. MR. HARTY: I think in relation to that, Ms. McTeague,

19 can you just give me a little geographic description of

20 what went on there in the family home. You had the 12:06

21 meeting in the kitchen, the sitting room?

22 A. I came in through the front door, met with Ms. Simms in

23 the hallway. Garda Harrison and the children were in

24 the living room. I went in and joined them in the

25 living room. I understood the children were being 12:06

26 introduce as mammy's friend -- or I was being

27 introduced to the children as mammy's friend, and I was

28 perfectly happy with that arrangement. When I met with

29 the children, and I don't think it's appropriate here

1 to talk about that part of it --

2 284 Q. No, no, no.

3 A. -- I met with them in the living room. And I was
4 satisfied that -- from what I observed, and my case
5 notes indicate that accordingly, and I think maybe 12:07
6 maximum 15 minutes that I was there. It was after the
7 Christmas period, everybody was very relaxed and happy
8 and there was -- I had no issues of concern and I left.
9 CHAIRMAN: Did you go into the kitchen?

10 A. No, I spoke with Ms. Simms in the hallway on my way 12:07
11 out.

12 CHAIRMAN: So you didn't go into the kitchen?

13 A. I never saw their kitchen. I could describe their
14 living room, but I never saw their kitchen, I couldn't
15 tell you what it's like, but I certainly know what 12:07
16 their living room and their hallway was like.

17 285 Q. MR. HARTY: And what did you say to her in the hallway?

18 A. I advised her that I was satisfied that the case was
19 closed, there is no further issues of concern and I
20 would be closing the case to the department. It might 12:07
21 take a week or a fortnight, but you will get a letter
22 from me indicating that the case is closed.

23 CHAIRMAN: What is the date of the letter that
24 eventually came, do you know?

25 MR. MCGUINNESS: The 27th. 12:07

26 MR. MCDERMOTT: Page 147. Sorry, Chairman, page 147
27 and 27th of February 2014, and that is the letter from
28 Bridgeen Smith to Marisa Simms indicating the matter
29 was closed and --

1 CHAIRMAN: Yes. That is the letter about the stamp.
2 MR. MCDERMOTT: Yes.
3 CHAIRMAN: Right. Well, there it is. So --
4 MR. HARTY: Sorry --
5 CHAIRMAN: This is a question now, a secret 12:08
6 conversation you had out of the hearing of Garda
7 Harrison which was later reported, allegedly, to Garda
8 Harrison by Marisa Simms on what you said. In
9 particular, it is alleged that you said to her that you
10 were embarrassed to be there and that, in effect, your 12:08
11 superior had a personal relationship with Sergeant
12 McGowan and that, in consequence of that personal
13 relationship, you had been asked to make this home
14 visit in circumstances where otherwise you wouldn't
15 have done so. Now, that is the allegation. I think we 12:08
16 really need to meet it squarely at this point.
17 MR. HARTY: Sorry, she was led in relation to her
18 evidence in relation to that, sir, and she has given
19 her evidence in relation to it. It is not something
20 that was said to my client. It was reported to him. 12:09
21 Insofar as the conversation took place, or otherwise,
22 it's a matter for Ms. Simms' counsel in relation to it,
23 and it's not a matter that I can properly put because I
24 am already reporting it secondhand or thirdhand.
25 CHAIRMAN: Mr. Harty, your client had no hesitation in 12:09
26 the witness-box in saying that this was, in fact,
27 reported to him by Marisa Simms and that is why he
28 understood it. Marisa Simms did not repeat it, did not
29 stand over the allegation. Your client is standing

1 over that allegation as having been reported to him,
2 and I am in a situation where hearsay evidence is
3 admissible, has been admitted, and I have to pay
4 attention to it. Now, if you don't want to put it,
5 that's fine. I have put it, so maybe you'd answer it, 12:09
6 so please answer it now.

7 A. At no point in time did I indicate to Ms. Simms in the
8 hallway, on a phone call or otherwise that I was
9 instructed by my line manager to do that visit. At no
10 point in time did I have any discussion with Ms. Simms, 12:10
11 Garda Harrison or otherwise with regard to my line
12 manager Bridgeen Smith's relationship with Sergeant
13 McGowan. At no point in time did I discuss -- I have
14 no doubt that I discussed, at the beginning of the
15 meeting, the close working relationship we have with 12:10
16 the Gardaí, in -- professional working relationship we
17 have with the Gardaí in the nature of the job that we
18 do. I did not, and I can't state this any more
19 categorically than this, I did not speak to Marisa
20 Simms in the hallway about our relationships, about 12:10
21 referral information, about apologising for being
22 there, or otherwise. I simply said I was satisfied
23 with what I had seen in the house and you will get a
24 letter from me and thanked her for allowing me to be
25 there. I didn't apologise for being there. Never at 12:10
26 any point in time in this case did I apologise for my
27 practice.

28 CHAIRMAN: You had indicated earlier on certain upset
29 that you had in relation to things that were said about

1 you. Well, you now have had the opportunity to
2 publically state what your position is on this.

3 A. Thank you.

4 286 Q. MR. HARTY: Ms. McTeague, you can understand, because
5 we deal with upset, you can understand how people might 12:11
6 be upset at the idea that this statement was taken in
7 October in relation to suggestions made in an office to
8 Ms. Simms that the withdrawal of her statement and
9 discussion of a family who had a visit from the HSE,
10 could you understand how that upset could arise? 12:11

11 A. Of course I could, but I wasn't aware of that
12 information --

13 287 Q. That --

14 CHAIRMAN: Sorry, Ms. McTeague has to be able to answer
15 the question. 12:11

16 288 Q. MR. HARTY: I am aware you are not aware of it, but the
17 Chairman has put to you in relation to upset. Can you
18 understand how Garda Harrison and Ms. Simms were also
19 upset in relation to things?

20 CHAIRMAN: What were they upset about? 12:11

21 MR. HARTY: Sorry, sir, I thought we had been here for
22 two weeks in relation to the matter. They were upset
23 about a visit by the HSE to their family; they were
24 upset about the fact that a statement was taken from
25 Ms. Simms on the 6th October; they are upset about the 12:11
26 fact that that statement was sent to GSOC grounding a
27 complaint; they are upset about the fact that that
28 statement was then used to commence disciplinary
29 proceedings; they were upset about the fact that never

1 was Garda Harrison ever asked to give his version of
2 events in relation to the matter; they are upset about
3 the fact they are here in relation to it, because Garda
4 Harrison spent six months stuck behind a desk in a
5 Garda station, ostensibly for his own safety, even 12:12
6 though we know that isn't the case now; they are upset
7 about the fact that all of this information was put out
8 in relation to them. That is what they are upset
9 about, and that should be entirely clear in relation to
10 what they are upset about. In relation to 12:12
11 Ms. McTeague, they are always very clear that they were
12 never upset with any of Ms. McTeague's actions or
13 manner in which she conducted herself, and they have
14 always been clear in relation to that.

15 CHAIRMAN: All right. Well, let's stop now because I 12:12
16 understood that I was inquiring into contacts between
17 the Gardaí and Tusla in relation to Garda Keith
18 Harrison. That is what the term of reference says.
19 And I understood that the pivot of that is, that this
20 witness, Ms. McTeague, would not otherwise have done a 12:13
21 home visit but for the fact that she had been
22 manipulated through her superior into doing a home
23 visit in circumstances where it was unnecessary and
24 that your client was upset specifically about that
25 particular thing that I am inquiring into. 12:13

26 MR. HARTY: Sorry, sir, if I can clarify. That is not
27 the pivot.

28 CHAIRMAN: And I think, and I think that in the event
29 that a Tribunal has been set up to inquire into that,

1 the least that can be done is that that allegation
2 should be aired publically with the person against whom
3 it is directed, so that, publically, that answer, if
4 there is one, can be given publically. That's what I
5 am focusing on now, Mr. Harty. 12:13

6 MR. HARTY: Yes. Well, I need to clarify in relation
7 to one thing.

8 CHAIRMAN: There is no point again in having this
9 discussion. It is pointless. The rule in Browne v.
10 Dunn is very clear. The rule in the Sunday world 12:13

11 newspaper case recently decided by the Supreme Court,
12 which I actually printed out a copy of and gave to
13 everybody in the room who is interested, it's very
14 clear: if there is an allegation, the allegation
15 should be put. People should have, in fairness, an 12:14
16 opportunity to deal with what is said against their
17 character. Now, I have put the allegation that Garda
18 Harrison is standing over, as having been reported to
19 him in the immediate aftermath of Ms. McTeague leaving
20 the house, and she has answered it. Perhaps that's all 12:14
21 that is necessary.

22 MR. HARTY: In terms of what you said, sir, the pivot
23 of this case --

24 CHAIRMAN: No, no, I am not listening to a submission
25 now, Mr. Harty. We are in the middle of a 12:14
26 cross-examination. It has now lasted for
27 two-and-a-quarter hours, and I think you really should
28 try and proceed.

29 MR. HARTY: Except I need to clarify something in

1 relation to the Tribunal. The Tribunal has suggested
2 that the pivot of this is the contact between
3 Ms. McTeague and Ms. Simms on the -- at the time of the
4 home visit. That is not the pivot of this.

5 CHAIRMAN: What is the pivot? 12:15

6 MR. HARTY: The pivot of this is the circumstance
7 whereby a statement -- this Tribunal is required to
8 investigate where a statement was taken, what was
9 decided to be done with that statement, matters which
10 in no way touch upon Ms. McTeague's actions at a 12:15
11 meeting on the 8th of October.

12 CHAIRMAN: That is fine. I understand that. I
13 understand that --

14 MR. HARTY: But there is not one single sentence that
15 gives rise to what -- 12:15

16 CHAIRMAN: Mr. Harty, everyone has been waiting for the
17 last two hours and fifteen minutes for this allegation
18 to be put. I have put it, and there it is. If you
19 want to expand on it or if you feel you want to ask
20 other questions which will make the allegation more 12:15
21 likely in terms of any fact, you are perfectly entitled
22 to do that. And of course I do appreciate that in the
23 event that the Gardaí coerced, which was the word that
24 was used in the letter, as I understand, to Minister
25 Zappone, a statement out of Marisa Simms, that is, of 12:16
26 course, an extremely important factor because it might
27 make it more likely in those circumstances that the
28 Gardaí would somehow exercise pressure on the Social
29 Work Department in Tusla and ensure that a home visit

1 was done, when it was unnecessary. I appreciate that,
2 very much. But in terms of contact between the Gardaí
3 and Garda Keith Harrison and Tusla, this is a pivotal
4 issue, it is clearly a pivotal issue, and I am not
5 standing back from that because I can't see any other 12:16
6 way of looking at it. And I really think we ought to
7 go on, Mr. Harty, I really think we ought to go on.
8 Witnesses can't be kept here forever.

9 289 Q. MR. HARTY: Ms. McTeague, what discussion did you have
10 with Marisa Simms after you had observed the children? 12:16

11 A. She walked me to the hallway. I was leaving. I
12 advised, similar to the conversation I had had at the
13 end of my meeting with them on 7th of February, that I
14 didn't believe there were any ongoing child welfare
15 concerns. I thanked her for letting me see the 12:17
16 children, I commented on them and how lovely they were,
17 and I advised her she would be receiving a letter from
18 me within the next fortnight, in the next number of
19 days/fortnight, to say that the case would be closed to
20 the Social Work Department. 12:17

21 290 Q. Did you advise her in relation to why you had decided
22 not to raise the particulars of the incident with the
23 children?

24 A. I did. That is also correct. I advised her that given
25 that -- from my understanding at that time on the basis 12:17
26 of the information I have and that the incident had
27 occurred at the end of September, I didn't feel it was
28 appropriate to raise it with the children and she was
29 satisfied with that. I didn't go into any more detail

1 except to say that it was clear there was a very close
2 relationship between all four of them.

3 291 Q. Because -- and just so we are clear in relation to
4 that, yet again things can be about what is understood
5 between people? 12:18

6 A. Sure.

7 292 Q. When you note this --

8 CHAIRMAN: Mr. Harty, I appreciate you can, of course,
9 explore that, but, you know, there is a computer on my
10 desk, there is a microphone on my desk, there is a -- 12:18
11 there is a glass that you can put water into on my
12 desk. These are facts. It's not a question of
13 perceiving things from that. They are either there or
14 they are not. And this conversation either took place
15 or it did not. That is clearly what I am looking at. 12:18

16 And in the event that there was any ambiguity in terms
17 of the way matters were put across, of course you are
18 entitled to explore that, could people have taken up
19 from what you said, that. That's fine. But there are
20 instances, actually, where things are black and white. 12:18
21 This may be one, I don't know.

22 293 Q. MR. HARTY: The situation is, you noted that decision
23 to Ms. Simms, as to why you weren't, didn't find it
24 necessary to go into the details of the incident with
25 the child in question, isn't that correct? 12:19

26 A. That's correct.

27 294 Q. And at page 162 of your case recording summary, you
28 make a note of that, page 162, but with one difference,
29 and that you mention in your note of why you made the

1 decision not to do it, is that it is important to note
2 that given the nature of the referral, discussion with
3 Sergeant McGowan and meeting with Keith and Marisa in
4 the Social Work Department earlier in the month, you
5 made a decision that it was not in either of the 12:19
6 children's best interests to bring up the issue in the
7 family home, and I have to put it to you that, at the
8 very least, you said that to Marisa Simms?

9 A. No, I did not. What I said to Ms. Simms was in a
10 general conversation. I didn't put it -- that is how I 12:20
11 would write a record. That is not how I would speak
12 with someone. What I said to Ms. Simms was, you are
13 aware of what the referral was, you are aware of the
14 information that we had, I didn't feel it was
15 appropriate to put it to the children given it had 12:20
16 happened so long ago. She was thankful that that had
17 been the case.

18 295 Q. I am sure she was thankful that that had been the case,
19 but you did mention that you said to her that because
20 of your meeting with them and because of what -- the 12:20
21 nature of the referral, that you didn't need to -- feel
22 it was appropriate or right to go into the information
23 with the kids. Now, what you note in your notes as to
24 what went on -- or your decision, is that you also have
25 the discussion with Sergeant McGowan mentioned? 12:20

26 A. I did not -- I want to be very clear about this. My
27 recording is, in this particular case, that is the
28 analysis, my analysis of the assessment that I
29 completed. In order -- Mr. Hone talked yesterday about

1 the pillars of an assessment and the pillars of social
2 work practice. I need to evidence why I am making a
3 decision and why I have come to a conclusion in a case.
4 That is a record that I would write. I would never
5 speak -- I certainly didn't have that conversation with 12:21
6 Ms. Simms, I did not mention Sergeant McGowan, and I
7 understand from Ms. Simms' own evidence that she is
8 saying that I also didn't. So I am very clear about
9 this. I did not mention Sergeant McGowan in that
10 conversation. I explained I didn't bring it up, I 12:21
11 didn't feel it was appropriate.

12 296 Q. Did you ever bring up Sergeant McGowan?

13 A. No, except in the initial meeting to explain that was
14 the source of the referral at the outset.

15 297 Q. And did you point out that it was Sergeant McGowan's 12:21
16 information that you were relying on rather than
17 Marisa's statement?

18 A. I pointed out at the meeting on the 7th that the source
19 of the referral was Sergeant McGowan. This is the
20 information that I had had and I understood it was part 12:21
21 of her statement, yes.

22 298 Q. And you never brought up Sergeant McGowan again?

23 A. I never, ever did. And if I ever had have brought up
24 Sergeant McGowan again, it would have been to say how
25 respectful and understanding she was of Ms. Simms' 12:22
26 situation. It never came up. I never mentioned
27 Sergeant McGowan, I never mentioned our working
28 relationship or Sergeant McGowan's working relationship
29 with anybody in my department. That is an absolute

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untruth.

CHAIRMAN: I think maybe it's a good time to have a break.

MR. HARTY: well, I have finished with Ms. McTeague. I have asked all the questions I need to ask Ms. McTeague, so it might be --

12:22

CHAIRMAN: We will sit again at half past one.

THE HEARING ADJOURNED FOR LUNCH

1 THE HEARING RESUMED, AS FOLLOWS, AFTER LUNCH:

2
3 CHAIRMAN: So Mr. Barnes, I think.

4 MR. BARNES: Yes, sir.

5
6 MS. MCTEAGUE WAS CROSS-EXAMINED BY MR. BARNES:

7 299 Q. MR. BARNES: Ms. McTeague, my name is Joe Barnes and I
8 appear on behalf of Marisa Simms. And I just have a
9 few questions to put to you. I take it you have been
10 following the proceedings closely?

11 A. Indeed, yes.

12 300 Q. And at the conclusion of your direct examination you
13 expressed feelings of hurt and felt that your
14 professionalism was unjustly under attack, isn't that
15 right?

16 A. That's correct.

17 301 Q. And I think you're aware that Marisa Simms has
18 indicated that you were courteous and professional at
19 all times in relation to her and the referral, and that
20 her problem is not with the way the referral was
21 managed or anything to do with your professionalism,
22 but that it relates to the necessity of the referral,
23 the fact that her children have a Pulse ID, and that is
24 her position, you understand that?

25 A. I do, yes.

26 302 Q. Now, going on from that, Marisa Simms indicated on Day
27 26 at pages 116 and 117 of the transcript - I will just
28 quote it - line 3:

1 "Yes, but you must -- you have somehow made the --
2 based on suspicions or something, Ms. Simms. The
3 guards motivating the HSE to get involved in February."
4

5 And her answer was:

13:37

6
7 "What I couldn't understand was why Inspector Sheridan
8 had made a reference to social services and then a week
9 and a half later I'm getting a letter, that's what --
10 that's all that was going on in my mind."
11

13:37

12 And I think you heard that?

13 A. I did, yes.

14 303 Q. And then at line 19:

15
16 "Well, why don't you know? You must be basing it on
17 something, your doubt that they may have been acting at
18 the behest of the guards?"
19

13:37

20 And she says:

13:38

21
22 "As I said, I suppose I was suspicious, in that I had
23 retracted my statement, and then a week and a half
24 later I got a letter, that's only my personal opinion."
25

13:38

26 And then on the following page, she makes -- she gives
27 the evidence -- sorry, just at the end of that page --
28 sorry, at line 5 on page 117:
29

1 "Okay. And you have nothing other than your own
2 thoughts/suspicions in relation to the connection
3 between withdrawing the statement and contacting the
4 HSE?"

13:38

5
6 And her answer was:

7
8 "That's all."

9
10 You heard that as well?

13:38

11 A. I did.

12 304 Q. Well, I just want to go a little bit further, before I
13 get into the questioning, to indicate that Marisa Simms
14 has instructed that she has no evidence that the Gardaí
15 had any bearing on you in the discharge of your
16 professional duties, do you understand that?

13:39

17 A. I do, yes.

18 305 Q. Okay. But you understand that she still, nevertheless,
19 has misgivings about aspects of the referral and that
20 her children have a Pulse ID, and is very, very upset
21 about it?

13:39

22 A. I appreciate that.

23 306 Q. Okay. And there may be circumstances justifying that
24 upset, and in particular I just want to refer to a
25 comment of the Chairman, which I'm sure you've also
26 heard, and it is Day 25, 26th September, at page 200 of
27 the transcript, and the Chairman says in the context of
28 an exchange with Mr. Harty:

13:39

1 "Chairman: And it is contested as to what was said at
2 the strategy meeting. If indeed what the Garda said at
3 the strategy meeting is correct then the HSE didn't do
4 enough, and if what they did in consequence of the
5 strategy meeting, it may be that they were doing too 13:40
6 much, I don't know. Let's wait and hear what they have
7 to say."

8
9 I'm sure you heard that?

10 A. I did, yes. 13:40

11 307 Q. And it would have concerned you, that that was said?

12 A. Of course.

13 308 Q. Yes. So moving then to the 9th October 2013, I think
14 the position is that Sergeant Brigid McGowan advised
15 that the referral related to two children who were 13:40
16 present during a row between Marisa Simms and Keith
17 Harrison, that Marisa Simms had made a statement of
18 complaint, that Keith Harrison was drunk, that physical
19 contact was evident and the children witnessed it,
20 isn't that the position as related to you by 13:41
21 Sergeant McGowan?

22 A. Under the influence of alcohol. She didn't use the
23 word 'drunk', to the best of my knowledge.

24 309 Q. Well, the papers are very detailed, you may be exactly
25 correct -- 13:41

26 A. Okay.

27 310 Q. -- but in any event, the real gravamen of my question
28 is that physical contact was evident and the children,
29 plural, witnessed it. And I think that that is

1 completely incorrect, isn't that right?

2 A. What I now understand to be correct is that there was
3 an argument and one of the children were there at the
4 beginning of the argument, Ms. Simms brought the
5 children to the car, one of them came back into the 13:41
6 house where Garda Harrison and Ms. Simms were still
7 having an argument and observed that part of it.

8 311 Q. Observed what?

9 A. Observed that part of the argument and the aftermath.

10 312 Q. But there was no question that either of the children 13:41
11 ever observed any domestic violence as alleged or at
12 all?

13 A. My understanding is that the incident of Garda Harrison
14 grabbing Marisa Simms' wrist did happen, they confirmed
15 that in my interview with them. They didn't 13:42
16 confirm whether the -- they said one of the children
17 had come back in from the car, yes.

18 313 Q. Now, isn't it the position that what was related to you
19 on the 9th October 2013 in the strategy meeting
20 relating to another case, Sergeant McGowan related to 13:42
21 you that both the children had witnessed alleged, and
22 only alleged, I say, domestic violence?

23 A. She didn't use the word 'domestic violence'. She did
24 say that both children, but that was later clarified at
25 the strategy meeting to one child, and that was 13:42
26 confirmed.

27 314 Q. And that position is incorrect as well, isn't it?

28 A. My understanding from the evidence given to the
29 Tribunal is that both Garda Harrison and Ms. Simms are

1 saying none of the children saw Garda Harrison hold
2 Ms. Simms by her wrist, but when I put the information
3 to them in my meeting with them on the 7th February,
4 they didn't indicate that, they just confirmed that the
5 incident had happened.

13:43

6 315 Q. Well, we will come to that presently. But isn't it the
7 position that the statement of Marisa Simms does not
8 provide a basis for Sergeant McGowan making that
9 statement to you on the 9th October 2013, isn't that
10 correct?

13:43

11 A. I think -- I think it's important to be clear about
12 this. Sergeant McGowan made an appropriate referral,
13 in my view --

14 316 Q. No, no, I'm not asking you that, I'm sorry. I'm just
15 asking you -- I've already indicated to you what Marisa
16 Simms' position is in relation to that. We are about
17 to come to the meeting on the 7th February and what was
18 or what was not confirmed. So I would ask you, please,
19 in some sense there has been an additional removal of
20 contention in relation to matters as they relate to you
21 out of the situation. There's no sucker punch on the
22 way or anything of that sort. I'm simply asking you to
23 confirm your understanding, having subsequently seen
24 the statement, that there was no basis within the
25 statement, for whatever reason, and I'm not asking you
26 to -- I'm going to come to something else now in a
27 second -- there was no basis within Marisa Simms'
28 statement for what was related to you in relation to
29 physical contact by Sergeant McGowan on the 9th October

13:43

13:44

13:44

1 2013, true or false?

2 A. I'm not sure that I can answer that with a true or
3 false. But yes, on the basis of Marisa Simms'
4 statement, it does not say in Marisa Simms' statement
5 that the children witnessed the physical altercation. 13:44
6 But I think it is important to put this into the wider
7 context of that conversation as we were leaving a
8 meeting. That was further clarified by
9 Sergeant McGowan at the meeting on the 21st October.

10 317 Q. Well, I have a précis of the document here. It 13:45
11 says Marisa Simms -- in my own note, Marisa Simms had
12 made a statement, Keith Harrison had drink taken, let's
13 put it that way, physical contact was evident, that is
14 a direct quote, and the children witnessed it, that is
15 a direct quote, and that is wrong, isn't that right? 13:45

16 A. That's correct.

17 318 Q. Thank you.

18 CHAIRMAN: Sorry, Mr. Barnes, if you wouldn't mind, can
19 we just have the particular page up that you're
20 referring to, it may help. And the bit that is wrong 13:45
21 is "children" as opposed to "child"?

22 A. That's correct.

23 CHAIRMAN: That's the bit that is wrong.

24 MR. BARNES: But I do think that -- I do think there's
25 an issue that neither child saw it, or saw what was 13:45
26 alleged, should I say.

27 CHAIRMAN: Well, again, we will look at the statement.
28 It's perfectly fair for you to make that point,
29 Mr. Barnes, but in due course we will look at the

1 statement and see what the statement says.

2 MR. BARNES: And in relation to --

3 CHAIRMAN: And I appreciate that the witness didn't
4 have the statement and would have only read the
5 statement, I suppose, since the start of the 13:46
6 Tribunal --

7 A. Yes.

8 CHAIRMAN: -- happening.

9 MR. BARNES: I'm sorry, I don't have the reference just
10 at the minute, but we will sort that out in due course. 13:46
11 I am very sorry about that.

12 319 Q. Now, also in relation to matters, something of
13 materiality to any such reference, namely - and we have
14 covered this already - the reference to the allegation,
15 and it is merely an allegation and it is disputed and 13:46
16 the context of it is disputed, but burying and burning
17 was not part of what was related to you, and that is --
18 would be what might be regarded as a material omission?

19 A. I don't recollect hearing the words 'burning' or
20 'burned' or 'bury' in the information that I received. 13:46

21 320 Q. Yes. Now, in relation to matters, Ms. Simms takes the
22 view that relating that physical contact was made
23 during the course of the row and that the children
24 witnessed it, is a very significant matter, but that it
25 could be a mistake, because, after all, you were in the 13:47
26 context of a strategy meeting relating to a separate
27 matter and she was telling you that a notice was on the
28 way, isn't that right?

29 A. Yes, she was advising me that she had forwarded a Garda

1 notification in relation to the children.

2 321 Q. And that she has no evidence to suggest that, for
3 example, that that was other than a mistake, if mistake
4 it was, but I put it to you that such a mistake in the
5 context of such a referral would be a very significant 13:47
6 mistake, whether or not, let's say, Brigid McGowan
7 realised it?

8 A. The significance of making a child welfare or child
9 protection referral to the Social Work Department in
10 this instance does not hinge on the fact that whether 13:48
11 the children saw or witnessed the incident or whether
12 the incident -- the fact of the matter is whether the
13 incident actually occurred.

14 322 Q. I'm sorry --

15 A. So I think it is important that I clarify this. I 13:48
16 understand the question to be, you know, would it be
17 less significant if the children didn't see the
18 incident, the physical grabbing of Ms. Simms' wrist.

19 323 Q. The alleged -- sorry?

20 A. I understand that is in her statement, from my memory 13:48
21 of reading it, and I don't have it here in front of me.
22 So the appropriateness, or otherwise, of the referral
23 is not contingent upon the children having witnessed
24 that. The appropriateness of the referral is based
25 upon all of the information that I have recounted here 13:48
26 already.

27 324 Q. And that's a professional view. But from Ms. Simms'
28 point of view and from a common-sense point of view,
29 wouldn't an observer in these circumstances regard

1 this, if mistake it was, as a very significant mistake?
2 And I'm not putting it that Ms. Simms is putting it or
3 can put it as other than as a mistake, but I am asking
4 you to say whether or not --

5 CHAIRMAN: Mr. Barnes, we're talking at cross-purposes, 13:49
6 and I'm not saying your questions are invalid, but if
7 one simply takes page 89 of the materials, which is
8 page 20 of the statement, there is a reference to a
9 particular thing happening and a reference to the child
10 being there. Now, I appreciate that during the course 13:49
11 of the Tribunal, whether I accept it or don't accept it
12 or whether it is relevant, that Marisa Simms has said
13 that as soon as there was a reference to taking down
14 Paula a peg or two, she brought the children out to the
15 car and that one of the children came back towards the 13:50
16 end of the row when she was leaving, but a different
17 account is given in that statement at page 89. That's
18 the plain reality of it. So it's hard to see how it
19 could be a mistake, in the event that that statement
20 wasn't coerced out of her, to make a reference to the 13:50
21 row being in front of the children. It's not a
22 semantic difference; it actually is a difference. I
23 think you can see that on page 89, if page 89 is put
24 up, because it is relevant to the questions that this
25 witness is being asked. 13:50

26 MR. BARNES: I am just not clear. We are saying that
27 Brigid McGowan made a mistake that was potentially
28 momentous in terms of the various increments of any
29 referral, or indicia of a referral. That's what we are

1 saying. And that it could be a mistake, but it was
2 very significant and that Marisa Simms' take on it --
3 CHAIRMAN: No, Mr. Barnes, I see your point, it could
4 be valid, and I suppose it's a question of, if you
5 have, let's say, five points and you knock off one of 13:51
6 them and say that's a mistake, did the other four
7 suffice to make a social work referral? If you knock
8 off two, did the other three? If you knock off three,
9 did the other two? I appreciate that line of question.
10 MR. BARNES: I think violence or non-violence would be 13:51
11 up there as possibly the most significant of, let's
12 say, the five that you were talking about
13 theoretically.
14 CHAIRMAN: Yes. All right. Well, then you are
15 entitled to pursue that, but I am looking at the text 13:51
16 of the statement which is on page 89, if we could
17 perhaps have that up as a reference point. As to
18 whether something incorrect was reported or taken up
19 incorrectly, I don't know. So the point you're making
20 is -- 13:51
21 MR. BARNES: I can't see.
22 CHAIRMAN: -- "children" was a mistake. And was there
23 some other point you wanted to put? Because I'm sorry
24 for not being clear, it's my fault.
25 MR. BARNES: I just don't have page 89 to hand. 13:52
26 CHAIRMAN: I'm sorry, Mr. Kavanagh, would you mind
27 putting up page 89? It is up.
28 MR. BARNES: No, it's not visible on my screen.
29 CHAIRMAN: Well, it's Volume 1, Mr. Barnes, page 89.

1 MR. BARNES: Yes.

2 CHAIRMAN: Do you have it there?

3 A. No, I don't.

4 CHAIRMAN: No, I don't either. Well, there's no point
5 in adjourning. We will carry on. You can take it out 13:52
6 in the physical thing, which is volume 1 and page 89.
7 I mean, there is a reference to him taking a good look
8 at the children because you'd only see them at weekend
9 visits by the time he was finished with them. So I
10 don't know how she was supposed to be looking at the 13:52
11 children if they weren't there or somewhere in
12 eyesight.

13 MR. BARNES: Well, as I understand it, there is -- what
14 was related was related orally, but there are mistakes
15 in it, such as the omission to burn and bury, and 13:53
16 mistakes in relation to the witnessing or not
17 witnessing of -- or the witnessing by both children or
18 any child of physical violence, and I think that these
19 are inclusions in error and omissions of significance
20 that relate to your own comments that I quoted just now 13:53
21 in the transcript and are of some significance in
22 relation to at least the common sense or Ms. Simms'
23 perception of the referral as being a valid one. But I
24 will move on for the moment, and if I have to make the
25 point again with reference to the specific text, which 13:53
26 isn't to hand, I will do so, with your leave.

27 325 Q. Now, Sergeant McGowan gave evidence that she did not
28 release the statement to you, and you know the reason
29 why she gave for that?

1 A. Pardon?

2 326 Q. Do you know the reason why Sergeant McGowan, the reason
3 Sergeant McGowan gave for the refusal to release Marisa
4 Simms' statement to you?

5 A. She didn't give me an explanation. I didn't -- when I 13:54
6 asked for it on the phone call on the 29th January, I
7 was asking for the part of the statement that related
8 specifically to the referral information that I had
9 received. She didn't give me an explanation as to why
10 I didn't receive that, and I phoned her then on the 7th 13:54
11 to clarify that verbally.

12 327 Q. And did she give you a written précis at any stage of
13 the reasons for the referral, or was it entirely oral
14 at all events?

15 A. It was entirely oral at all events. 13:54

16 328 Q. And then particularly at, then, for the making of
17 mistakes, perhaps innocent mistakes but nevertheless
18 momentous mistakes?

19 A. I don't believe they were momentous mistakes. I
20 believe that on the basis of the -- 13:55

21 329 Q. That is not the question. Did the fact that --
22 MR. MCDERMOTT: Sorry, Chairman, the witness is
23 perfectly entitled to disagree with the proposition
24 contained in the question. If a question is put to a
25 witness which includes the phrase "momentous mistake", 13:55
26 it is obviously a matter for you, Chairman, but I would
27 have thought that the witness is perfectly entitled,
28 for fear of they're obviously being misunderstood, to
29 say, by the way, I respectfully disagree with the

1 proposition in your question, I don't think it was a
2 momentous mistake. If the witness doesn't do that,
3 then the witness will then find themselves being told
4 they have agreed with the phrase "momentous mistake",
5 and that may or may not have implications for other
6 witnesses. I am sorry for interrupting. 13:55

7 CHAIRMAN: It may help to say where my thinking is in
8 relation to this matter, and my thinking is: which way
9 does this go? If there was more in the statement and
10 it wasn't said or the HSE don't remember it, that seems 13:55
11 to be the position of -- I'm sorry, Tusla, then Tusla
12 are saying we would have taken more action than the
13 action that we took. If indeed what was said by way of
14 the first conversation with Sergeant McGowan was more
15 than was in the statement, then it is valid to pursue 13:56
16 the issue as to whether, nonetheless, there would have
17 needed to have been a talk in the office, I'm using
18 that as the building, and as to whether, in consequence
19 of the talk in the office, there would needed to have
20 been the home visit. So it goes both ways. And it's 13:56
21 possibly best that people take a clear position on it,
22 as to their recollection of events, and I appreciate
23 recollection can be fallible. But I think what
24 Mr. Barnes is putting to you, if I may turn to you,
25 Ms. McTeague, is this: that if there was some 13:56
26 mistakes, if you like, against the couple making it
27 worse than it seemed in the statement, then it may be
28 that you wouldn't, taking those mistakes out, like
29 taking one finger out of five, have needed to follow

1 the matter up at all. I think that is the point being
2 made to you. Is that fair, Mr. Barnes?
3 MR. BARNES: Yes, it is, Judge.
4 CHAIRMAN: Yes. All right.
5 A. And to be clear, taking that one point out with regard 13:57
6 to the children witnessing the violence, it wouldn't
7 have changed my course of action and my assessment in
8 the case.
9 330 Q. MR. BARNES: And then my question in relation to the
10 common sense perception and Marisa Simms' subjective 13:57
11 view as to the referral being fair and proper, in the
12 light of what she has heard and the light of the papers
13 that she has witnessed showing that omission -- or,
14 sorry, that inclusion, do you understand how she feels
15 about the referral being part-based on the unsupported 13:57
16 position that either or both children witnessed
17 physical violence?
18 A. I can appreciate Ms. Simms' position, yes.
19 331 Q. Thank you. Now, in relation to -- I think I was asking
20 you, would it have been helpful that you received a 13:58
21 written précis of the allegations such that perhaps
22 people might take a little more care in writing them
23 down to make sure that they related, cross-checking and
24 so forth, would it have been better if you had received
25 at least that over and above an oral indication? 13:58
26 A. My request on the 29th was to have --
27 332 Q. I'm sorry, that's not, again --
28 A. Again, I'm answering your question --
29 333 Q. Sorry --

1 A. -- would it have been helpful. Yes, it would have been
2 helpful if I had have had the language that Ms. Simms
3 used in her statement to the Gardaí so that I could put
4 it to her in my meeting with her. That is why I
5 requested it. So it would have been helpful. 13:58

6 334 Q. And in your several follow-up phone calls where you
7 were playing telephone tag with Sergeant McGowan and to
8 no avail, when you had 25 or 30 active cases in a busy
9 town, where you obviously work very hard, you weren't
10 able to effectively get the statement you were looking 13:59
11 for, isn't that right?

12 A. Your sequence of events is incorrect there.

13 335 Q. Okay.

14 A. The phone calls to and from Sergeant McGowan were in
15 advance of my conversation with her on the 29th. They 13:59
16 weren't after the 29th and before the 7th. Sergeant
17 McGowan had made attempts to contact me, as I her,
18 prior to the 29th, not at any time after the 29th and
19 between the 7th of February.

20 336 Q. Pardon me. But you did make numerous attempts to 13:59
21 obtain a copy of the statement, correct?

22 A. No. I made one request on my phone call on the 29th.

23 337 Q. Very good.

24 CHAIRMAN: It's the 29th, not the 27th?

25 A. Whichever date that -- let me just clarify. 13:59
26 CHAIRMAN: I thought it was the 27th.

27 A. The 27th it is, I apologise.

28 338 Q. MR. BARNES: So I presume looking for a statement is a
29 usual thing that you will do to clarify the basis for

1 the referral, because, as you've indicated, it's quite
2 a serious thing for social services to get involved
3 with a family and may have impact on them and you need
4 to screen them and make sure that that intervention is
5 justified and necessary to put children first, isn't
6 that right.

14:00

7 A. That's correct.

8 339 Q. So am I correct in saying that looking for a statement
9 in these cases is not an unusual thing?

10 A. At the time, in 2014, this wasn't our normal practice
11 in relation to looking at or looking for copies of
12 statements that were made. Currently it is our

14:00

13 practice. We do make requests from the
14 superintendent's office to view statements in
15 situations similar to this, and in particular child
16 protection cases, but at that time, given that

14:00

17 Ms. Simms had retracted her statement, I felt it was
18 important that I understand the language that she had
19 used herself so that I could put it to the children.
20 So it wouldn't have been a usual request of Sergeant
21 McGowan, but it certainly was one that I made, that I
22 felt was appropriate and important in this instance.

14:01

23 340 Q. I see. And it was the withdrawal of the statement is
24 what actuated you to seek a copy of it?

25 A. Yes, because I was unclear. While Sergeant McGowan had
26 advised me that Ms. Simms was standing over the content
27 of the information that she had shared in her statement
28 of complaint, I felt it was important for me, in order
29 to be thorough in my assessment, that I have sight of

14:01

1 that.

2 341 Q. Now, are you aware of the reason why Sergeant McGowan
3 gave in evidence as to why she did not wish to give you
4 the statement?

5 A. I will need to be reminded of that. 14:01

6 342 Q. Well, would you tell us what that is?

7 A. I will need to be reminded. I don't recall.

8 343 Q. Oh, you need to be reminded, I beg your pardon. Well,
9 the reason given is that, as I recall it, is that
10 Brigid McGowan was anxious not to compromise the 14:02
11 integrity of the investigation. What do you think of
12 that?

13 A. I think that's Sergeant McGowan's professional opinion
14 in respect of the substantive statement that she had at
15 that time. 14:02

16 344 Q. Well, for some reason she's being guarded about giving
17 you the statement, isn't that right? And I'm sure she
18 trusts you as much as you trust her, but there is a
19 question of trust, professional trust, in that context;
20 at least it arises, don't you agree? 14:02

21 A. I think Sergeant McGowan -- I certainly don't think
22 it's an issue of trust. I have worked with Sergeant
23 McGowan for a long time and I would absolutely respect
24 her professional integrity, as I understand she does
25 mine, and if she felt that it wasn't appropriate to 14:03
26 share that information with me when I had asked her, I
27 will accept that, hence the reason I did follow up with
28 a follow-on phone call prior to the meeting with the
29 couple concerned and got the information that I

1 required.

2 345 Q. well, in any event, I'm sure I'm not impugning the
3 professional integrity of either of you at all or on
4 behalf of Marisa Simms, but she felt, and she has given
5 evidence, that she held on to the statement in this 14:03
6 particular case at least, "Gardaí integrity" of the
7 investigation, what do you think of that?

8 A. I accept that's Sergeant McGowan's position, and I am
9 happy to accept that and was at the time also.

10 346 Q. And you have been following the proceedings and you 14:04
11 have been furnished with the papers which clearly you
12 have read assiduously because of the implications for
13 you, which I hope I have done something to diffuse,
14 but -- on Marisa Simms' behalf. But regarding the
15 integrity of the investigation, I think you have seen 14:04
16 the statement and the materials related to it, such as
17 the complaint in relation to eight hours, that there
18 was a long preamble and lead-in, and that only four of
19 the 38 pages at the end related to the subject matter
20 that you subsequently got involved with, you've seen 14:04
21 it, haven't you?

22 A. Ms. Simms' statement you're referring to?

23 347 Q. Yes.

24 A. Yes.

25 348 Q. No, no, no, I'm not. I'm referring to Ms. Simms' 14:04
26 statement and everything concerning it in the papers
27 before the Tribunal. You would have seen all of them?

28 A. They have been made available to me, yes.

29 349 Q. And you probably have heard the evidence in relation to

1 the preamble when there was one page of notes on the
2 table, and that high up, quite high up in those notes
3 was "harassment", the word "harassment"?

4 A. That's correct, yes.

5 350 Q. And you are aware perhaps of the evidence that was 14:05
6 given in relation to harassment, and it was to the
7 effect that for all of the relationship from 2010 to
8 unhappy circumstances in September 2013, it seemed as
9 if the guards were trying to build a case that there
10 was criminal harassment right throughout that time in 14:05
11 terms of section 10 of the Non-Fatal Offences Against
12 the Person Act 1997. Would it have been helpful if you
13 had sight of the statement and were aware of those
14 circumstances?

15 A. I think it's important that -- I think you're asking me 14:06
16 do I think the Gardaí were building a criminal
17 investigation and had I seen the statement would that
18 have been my view. I would have held a very different
19 view, and I can't comment on what the Gardaí were or
20 were not doing in their practice, but what I can 14:06
21 absolutely say is, had I had sight of that statement in
22 its entirety, my assessment and investigation from the
23 Social Work Department's perspective would have been
24 managed in a different way. It's my view, on reading
25 Ms. Simms' statement, that there's evidence of domestic 14:06
26 abuse over a protracted period of time, and I can't
27 comment, as I said, on the Garda investigation, but
28 that would have been my reading of it and I would have
29 put that information to her and met her individually on

1 her own to allow her to respond to that, had I had
2 sight of it.

3 351 Q. Having heard the evidence and seen the materials, would
4 you agree with me that in attempting to build a case of
5 harassment, based on interpersonal communications 14:07
6 between 2010 and 2013 when the unhappy differences
7 arose, could possibly indicate an animus on the part of
8 the guards, for good reasons or bad, towards Keith
9 Harrison?

10 MR. MCDERMOTT: Chairman, I'm sorry to interrupt. It 14:07
11 seems like -- I haven't interrupted the last couple of
12 questions. Is this witness being asked to review the
13 paperwork in the case and express an opinion as to
14 whether the Gardaí were up to no good? That would seem
15 to be the job of the Chair. Obviously, this witness 14:07
16 has expertise --

17 CHAIRMAN: Well, Mr. McDermott, I do understand the
18 submission you make, but I think it is fair for
19 counsel, particularly for Marisa Simms, to ask someone
20 who was at the coalface, and that's where Ms. McTeague 14:08
21 was, did she in any way think, did she have any reason
22 to feel that the Gardaí had an animus against either
23 Garda Harrison or Ms. Simms, and that is a fair
24 question to ask, so maybe you would answer that
25 question. Was there anything to indicate to you that 14:08
26 the Gardaí that you interacted with had any kind of
27 animus against either of them?

28 A. Absolutely not. I would have suggested the
29 alternative, to be fair. Sergeant McGowan expressed

1 concern about Ms. Simms. It was her suggestion about
2 us not approaching her, given she had been
3 hospitalised, and to allow her a period of time to
4 recover, was done from a position of caring. It was a
5 family-centred and child-centred approach as a
6 sergeant, in my view, and I certainly didn't speak to
7 any other guard about this case. But in my engagement
8 with Sergeant McGowan, I could only say that it was
9 completely the contrary to what has been put to me.

14:08

10 352 Q. MR. BARNES: Very well. Now, in relation to the
11 errors, that is as to the matter of it being reported
12 to you by Sergeant McGowan that you didn't -- sorry,
13 you didn't have the paperwork and it was reported
14 orally to you by Sergeant McGowan that both children
15 had witnessed domestic violence, can you understand
16 how, in your interview on the 7th February 2013, it
17 would be fair to say that you and they were at
18 cross-purposes because that allegation in relation to
19 domestic violence was not part of the equation as far
20 as they would be concerned, or the children witnessing
21 domestic violence, and of course they both deny that
22 there was any.

14:09

14:09

14:10

23 A. That's not correct. At the outset of my meeting, as
24 I've already explained, I put the information to Garda
25 Harrison and Ms. Simms, the information I had received
26 from Sergeant McGowan in particular that morning. They
27 both confirmed that the incident did happen, and in
28 fact Ms. Simms herself corrected me to say that it
29 wasn't both children, it was one of the children, and

14:10

1 there was no denial of the fact that Garda Harrison had
2 held her by the wrist. So I can't possibly agree with
3 what you are saying.

4 353 Q. No, you see, that's it, because if -- if there was no
5 basis for Sergeant McGowan saying that both, and 14:10
6 there's a temporal aspect in relation to what the elder
7 child saw and how much the child was in a position to
8 see, but how can you say that all sides were at idem
9 when there was a serious allegation, which there is no
10 basis for, was -- that you knew about and they did not 14:11
11 know about, was part of the equation? You are saying
12 that you put it to them that both children witnessed
13 domestic violence and they accepted that, is that what
14 you are saying?

15 A. No, what I am saying is, I put the information to them 14:11
16 that I was aware of and that they admitted that it had
17 happened. So I will repeat myself again: I put it to
18 them that I was aware that there had been a row, that
19 it was an alcohol-fuelled argument from Garda
20 Harrison's position, that Ms. Simms had seen that the 14:11
21 children were getting upset, had brought them to the
22 car, and that he had -- she had come back in to get the
23 uniform, I understand, from the tumble drier, and that
24 Garda Harrison had held her by the wrist in the utility
25 room and one of the children had come into the house. 14:12
26 That's what I put to them and that's what they
27 confirmed. And to be clear, Ms. Simms very quickly
28 corrected me and advised that both of the children
29 didn't see that, it was one of the children that had

1 come in from the car. So there was no ambiguity
2 between myself and them, I understood at the time, nor
3 did they express any.

4 354 Q. I don't know if you can say that there was no
5 ambiguity. There's no ambiguity as far as you are
6 concerned. I'm sorry. There is misinformation,
7 material misinformation, for whatever reason. And
8 Ms. Simms is perfectly prepared to accept that it's a
9 human mistake, however momentous. But this is
10 misinformation. There's no basis to it in the
11 statement. You are operating on the assumption that
12 it's there.

14:12

14:12

13 CHAIRMAN: Well, Mr. Barnes, there is an issue as to
14 whether the statement is worse or better than the
15 information conveyed by the Gardaí.

14:12

16 MR. BARNES: I think it's both.

17 CHAIRMAN: And it may be that some people will take the
18 view that if you actually read the statement on page 89
19 and 90, that it is, in fact, worse than anything
20 conveyed to the social services by the Gardaí.

14:13

21 MR. BARNES: Except for the --

22 CHAIRMAN: I mean, we're dancing on pinheads here.
23 We're referring to one particular thing, which is "the
24 child", "the children", and in looking at the statement
25 there's a reference to a particular child's eyes
26 filling up with tears and Keith Harrison not stopping.
27 Now, again, of course it is a pivotal issue as to
28 whether that was coerced, but the clear evidence so far
29 from Tusla is that if they had actually read that

14:13

1 statement, their approach would have been much tougher,
2 if I can use 'tougher' as a euphemism here for taking
3 more action, investigating further, investigating
4 longer, keeping the family in their sights, to ensure
5 that things would not happen again. The clear position 14:13
6 is that if they had read that statement, that that is
7 the approach they would have taken and the approach
8 they took was too mild. That's the evidence.

9 MR. BARNES: well, I'm --

10 CHAIRMAN: Am I wrong in thinking that? Am I taking 14:14
11 you up wrong?

12 A. You are not.

13 MR. BARNES: My point is, sir, that I am putting it to
14 her that both sides were at cross-purposes in relation
15 to matters, as, one side, that is Ms. McTeague, had 14:14
16 incorrect information that she received, the other side
17 had the statement which was retracted after some of the
18 allegations were repudiated. I am putting it to her
19 that they were at cross-purposes and that she is
20 therefore mistaken and that that is a reasonable 14:14
21 position to adopt in the circumstances.

22 CHAIRMAN: I mean, Mr. Barnes, I'm not stopping you
23 putting that allegation, certainly. That's a
24 reasonable allegation to put. What Mr. Barnes seems to
25 be putting to you is that there were certain mistakes 14:14
26 in what you were relayed and that these mistakes were
27 perhaps not as bad as what was in the statement, but
28 nonetheless, when you look at those and if you took
29 away the mistakes, you would never have done any

1 investigation. That's what seems to me to be the point
2 of this.

3 MR. BARNES: I'm sorry if I am being awkward.

4 CHAIRMAN: No, you're not being in the slightest bit
5 awkward, Mr. Barnes. 14:15

6 MR. BARNES: What I'm saying is that they were at
7 cross-purposes in relation to what was being accepted
8 in the meeting by Keith Harrison and Marisa Simms, and
9 let's not forget that they were on the cusp of tears,
10 each of them, and Marisa then burst into tears and
11 Keith Harrison. So it was a stressful encounter for
12 them. 14:15

13 CHAIRMAN: Okay. Well, I understand that, Mr. Barnes.
14 And if it be the case that there is a disagreement with
15 Ms. McTeague as to what she put to them at the meeting
16 and as to what Garda Harrison accepted, then, well, I
17 suppose it would be good to hear as to what that is. 14:15

18 355 Q. MR. BARNES: I'm simply suggesting to you that if you
19 were given mistaken information, we now know to be
20 mistaken, there having been no basis for it in Marisa
21 Simms' statement, if you were given mistaken
22 information, are you operating on that particular
23 assumption and didn't put it perhaps clearly to them,
24 that you could be at cross-purposes as to what was
25 accepted and what was not accepted, they being in a
26 very stressful situation and they obviously wept
27 shortly thereafter? 14:16

28 A. I accept that it is possible that we were at
29 cross-purposes with regards to the children witnessing

1 Garda Harrison holding Marisa's wrist. I accept that
2 is possible.

3 356 Q. Thank you. And if I wasn't clear, I apologise. And
4 that accordingly, again from Marisa Simms' point of
5 view, that that could cause her some misgivings about 14:16
6 -- and she has no misgivings whatsoever, by the way, in
7 relation to the manner in which you conducted the
8 referral, either from personal courtesy or from
9 professionalism, but that she has some feelings about
10 that particular circumstance and that what is taken as 14:17
11 an admission by her and perhaps by both of them, you
12 understand that?

13 A. I can understand why Ms. Simms would feel like that.

14 357 Q. Now, moving on to another potential misunderstanding,
15 and that is in relation to the question, and I accept, 14:17
16 Marisa Simms accepts that this could -- the implication
17 could have a bearing on your professional standing, and
18 that has been, I think, wholeheartedly withdrawn -- or
19 not withdrawn, but clarified at the start of this
20 particular cross-examination. 14:17

21 CHAIRMAN: Well, again, Mr. Barnes, it may be relevant
22 to put as to why that allegation was sent to a minister
23 of government and as to why that allegation is actually
24 contained in her statement, if it is now being
25 withdrawn. I mean, again, it's all very well, you 14:18
26 know, to say of somebody that they're a nice person,
27 that's what's being said about Ms. McTeague, I am sure
28 it is true, but you can be a nice person and you can be
29 a person who is prepared to sacrifice your professional

1 integrity and operate, in effect, under the control of
2 the Gardaí and apologise for your presence and say to
3 someone who you are professionally interacting with to
4 the benefit of their family that you would not be here
5 but for the fact that a senior social worker, that is 14:18
6 to say Ms. McTeague's boss, was lent on by a particular
7 garda, which is to say Sergeant McGowan.

8 MR. BARNES: Yes, sir.

9 CHAIRMAN: I mean, that is actually a really, really
10 seriously thing, and as has been famously said, 14:18
11 niceness is not enough, because you can be nice and you
12 can be utterly corrupt.

13 MR. BARNES: Yes.

14 CHAIRMAN: And I really think that has to be tackled.

15 MR. BARNES: Yes. 14:19

16 CHAIRMAN: Why was that said? If it is being withdrawn
17 now, why was it said before?

18 MR. BARNES: Well, absent direct instructions, can I
19 just say my surmise from taking instructions is this:
20 that having read all the papers and having been in a 14:19
21 domestic relationship where both tried to make sense of
22 what was happening to them and it was extremely
23 distressing to them, these things have been discussed,
24 and I don't obviously want to go too deeply into
25 instructions, these things have been discussed, and, 14:19
26 for example, asking a question like, in fairness, can
27 you say that such-and-such was mistaken, such as
28 perhaps seriously and momentarily mistaken, as in Garda
29 Brigid McGowan, and the answer is yes, and therefore

1 it's put to this witness in those terms. So having
2 been in the crucible of this particular inquiry,
3 consideration has been given to a number of factors and
4 that's the only way I can explain why there may be some
5 divergence between what was said to Minister Zappone. 14:20

6 CHAIRMAN: Again, Mr. Barnes, I'm not sure people
7 actually realise how serious this is. We're all
8 sitting here, it's costing a great deal of money, but,
9 I mean, the plain reality of this is, as the Jesuits
10 used to say, and I didn't by the way go to the Jesuits, 14:20

11 you can be furious in the evening and you can write a
12 letter, which is what we used to call a snorter of a
13 letter, and in the morning you think about it and see
14 whether you are going to send the letter. But these
15 are allegations made, sometimes in affidavits, 14:20

16 sometimes in statements, and, in one case, in a letter
17 to a minister of government under the Constitution,
18 complaining about social services in Donegal. Now,
19 that doesn't happen in consequence of a
20 misunderstanding, because the allegation is very 14:21

21 specific. If it now be the case that it is said,
22 somehow, that apart from being incorrect, that it came
23 about due to a particular circumstance or event, maybe
24 that particular circumstance or event should be made
25 known to the Tribunal or to the witness so the witness 14:21

26 can, I suppose, understand why they were accused of
27 this highly unprofessional conduct of accepting
28 directions from the Gardaí in carrying out their
29 professional duty as a social worker.

1 MR. BARNES: I understand. Sir, I did indicate that,
2 in answer to a comment of yourself, that it was my
3 surmise that this is the case. But it's clear that the
4 cross-examination has been on the basis that wasn't it
5 reasonable for Ms. Simms to be very upset and 14:22
6 disconcerted about certain anomalies in relation to the
7 reference, including the fact -- or the allegation
8 that -- without a basis, that both children witnessed
9 domestic violence and that she had misgivings about the
10 reference for that and other reasons. 14:22

11 CHAIRMAN: Well, it may be, but I have to bear in mind
12 that there is a lot of represented parties in this
13 Tribunal and I have been looking down for the last
14 three weeks and I appreciate there are a number of
15 upset people here. 14:22

16 MR. BARNES: Yes, indeed.

17 CHAIRMAN: And for very good reason.

18 MR. BARNES: Yes. Apropos of which I hope that this
19 party has done her best to take the fairest possible
20 view and made clear in her evidence how she felt in 14:22
21 particular about the HSE, and even in relation to the
22 misinformation that was communicated to the HSE, has
23 accepted, as any fair-minded person would do, that it
24 is possible that that misinformation is entirely due to
25 an innocent mistake. 14:23

26 CHAIRMAN: Mr. Barnes, I suppose that's not what I am
27 talking about, because I think anyone can realise that
28 it would have been better had the statement been passed
29 over or at least an extract from the statement had been

1 passed over, certainly that's the case, in which case
2 the intervention in the family would have been at a
3 higher level. But, in fact, I'm not talking about
4 that, I'm not talking about that at all. I'm talking
5 about the fact that there's supposed to be a visit to 14:23
6 the kitchen, there's supposed to be a conversation in
7 the kitchen, which is to the effect that I'm only here
8 because the Gardaí lent on my supervising social
9 worker. And again, you know, that's not something that
10 people can have a misunderstanding about; either it 14:23
11 happened or it didn't. Even the visit to the kitchen,
12 nobody has yet put to Ms. McTeague that she was in the
13 kitchen, although she said, look, the only place I was
14 in was in the hall and the sitting room. Again, it's
15 coming back to this very, very crucial aspect of Irish 14:24
16 law, which is still the law, and whether they enforce
17 it down in the criminal courts now or not I do not
18 know, but I always did; whatever the allegation is that
19 is being made by someone, that is the basis upon which
20 you cross-examine, and while you can take your time in 14:24
21 getting to the point, the point must be got to and the
22 allegation must be put. And I'm going to take an
23 inference, whatever inference I deem appropriate in the
24 end, in the context of all of the submissions and all
25 of the evidence, if that is not now put. 14:24

26 358 Q. MR. BARNES: In relation to the kitchen, can I put it
27 to you that talk did take place in the kitchen and
28 Ms. Simms remembers you admiring flowers. I mean, does
29 that jog your memory at all?

1 A. Not at all.

2 359 Q. And that there's a glass door in the sitting room and
3 therefore the children could have heard the
4 conversation. That's the note that has just been
5 passed to me. 14:25

6 A. That's not my recollection --

7 360 Q. Had the conversation taken place in the hallway?

8 A. No, my recollection is the conversation I had had
9 following meeting with the children and the family
10 together was in the front hall by the front door. I 14:25
11 have no memory whatsoever of being in the kitchen in
12 that house.

13 361 Q. I know, but I think you may have said categorically
14 that you weren't in the kitchen?

15 A. I categorically wasn't. I would remember -- I can 14:25
16 categorically say -- to be clear, if Ms. Simms is
17 saying one thing and I'm saying another, there's
18 obviously a disagreement of where I was in the house.
19 I have no memory and I categorically -- I know the door
20 that I went in, I went in the front door and into the 14:25
21 right, that was into the living room. I know where I
22 went, I know where I sat in the room. I could even
23 tell you what the children were wearing, what they were
24 wearing. I could tell you what the hall was like. But
25 I definitely was not in the kitchen in that house. 14:25

26 362 Q. Now, Marisa Simms indicates in her statement:
27 "I don't think I will need to speak to you again but
28 I'll have to speak to my team leader", that's in
29 relation to the necessity for a follow-up home visit

1 after the meeting of -- or at the meeting of the 7th
2 February. Could you have said something like that?

3 A. No, I don't believe so. What I did say at the end of
4 that meeting was, as I've already said, I was satisfied
5 that, and I believed both Garda Harrison and Marisa 14:26
6 Simms in what they had shared with me. I didn't
7 believe there was a need to do a further assessment or
8 there was other information I needed to gather from
9 other professionals. I asked for Ms. Simms' phone
10 number. And whether I used the word 'may' or 'need to' 14:27
11 or 'have to' or 'will' visit the children, I can't
12 recall exactly. But did I make reference to my team
13 leader? I have absolutely no memory of doing that and
14 I don't see why I would have had. I had already had my
15 decision made. 14:27

16 363 Q. And it's perhaps unfortunate to say that you were --
17 words to the effect that you were confused or
18 conflicted or apologetic, but you have indicated that
19 there is an impact of social services coming into
20 people's lives -- or, sorry, the impact of social 14:27
21 services coming into people's lives can be quite
22 significant. And as a caring person in a caring
23 profession, do you say that there was nothing in your
24 countenance and demeanour that might have given the
25 impression that you were -- first of all, obviously, 14:27
26 you were putting children first as public policy, and
27 as you're required to do professionally, but on a human
28 level you may have -- your countenance or demeanour may
29 have indicated a sort of conflictedness about having to

1 do something, especially, as you've just indicated,
2 where you thought that, while it was necessary, that
3 not much would come of it?

4 A. It is the situation in my job, Chairman, that this
5 happens regularly. Referrals come to me, I investigate 14:28
6 it, I have -- I get an explanation for what has
7 happened and we move on and the case doesn't proceed.
8 That would never preclude me to then apologise for
9 having had to do that in the first instance. I fully
10 understood, I accepted their explanation, and if my 14:28
11 demeanour is interpreted in some way by another person,
12 I certainly can't have responsibility for that.

13 364 Q. Of course. And if she hangs unfortunate or inaccurate
14 words such as 'apology' or 'embarrassment' or some such
15 word on the circumstances, but you say I will or I may, 14:29
16 or I don't think I will need to speak to you again but
17 I'll have to check with my team leader, that your
18 countenance and demeanour might have indicate a sense
19 of conflictedness, and 'embarrassment' is the wrong
20 word or 'conflictedness' is the wrong word, but just a 14:29
21 sense on a human level of that conflict of having to
22 come into people's lives, you're clearly sensitive
23 about it, and properly so, and just as a caring person
24 would be. Could you understand how she might have
25 received that message? 14:29

26 A. Yes, I can understand that. It's not the message I was
27 given, but to be fair to Ms. Simms, I can understand
28 that. If I was on receipt of a meeting like that and
29 how difficult it proved to be for them both, I can

1 understand that. It certainly was not how I conduct my
2 professional practice and it wasn't the message that I
3 was giving.

4 MR. BARNES: Thank you very much.

5 CHAIRMAN: It's not being put now, it seems, by 14:30
6 anybody, that there was a conversation, whether in the
7 kitchen or anywhere else, where Ms. McTeague indicated
8 that she was embarrassed to be there and she wouldn't
9 be there but for the fact that her team leader,
10 Bridgeen Smith, had had contact with Sergeant McGowan, 14:30
11 with whom she had a personal relationship, is that not
12 being put now by anybody?

13 MR. BARNES: Yes. Well, I don't think it is for me to
14 put it because --

15 CHAIRMAN: It's your witness, and she is the one who, 14:30
16 according to her partner, is the origin of that
17 particular allegation.

18 MR. BARNES: That is according to her partner.

19 CHAIRMAN: Well, he stood over it. But the question
20 hasn't even then been explicitly put. 14:30

21 MR. BARNES: Well, given that I --

22 CHAIRMAN: It's, you know, not as if I am making any of
23 this up. I'm not making anything of this up. Martin
24 McDermott v. Sunday World Newspapers, I have given
25 people that, the rule in Browne v. Dunn, people have 14:31
26 that, I mentioned it a number of times over the course
27 of the last weeks. It is not being put by anybody.
28 But this is not a question of someone making a grimace
29 or perhaps turning a slightly different colour; it is a

1 question of a specific allegation that was put in black
2 and white to a number of parties, including a minister
3 of government, and nobody appearing on behalf of the
4 parties who are supposedly witness to that is prepared
5 to actually put that to this witness. I don't actually 14:31
6 understand. I mean, if you accuse somebody of murder
7 in the wrong, let us say, and then you discover, oh,
8 look, I'm really sorry because the person you're
9 supposed to have murdered in fact just rang me from
10 England yesterday, it might be reasonable to (a) admit 14:31
11 you're wrong and (b) to apologise. Now, forget about
12 apologies, that is nothing to do with the way courts
13 conduct their business, but in the event that this is
14 wrong and shouldn't have been said, I think now is the
15 time to say that this is wrong and shouldn't have been 14:32
16 said, as opposed to saying that this was somehow
17 telepathically picked up in consequence of some grimace
18 or some body language, or what, I don't know, from
19 Ms. McTeague in the house, in the corridor, in the
20 wherever. 14:32
21 MR. BARNES: Yes, Judge I completely understand the
22 point. What I was maintaining was that my client had
23 not maintained that position in evidence, that she was
24 party or knew about the conversation in question. And
25 she is now separately represented and she is 14:32
26 responsible for whatever is put in a letter on her
27 behalf when she is jointly represented, and I will just
28 have to broach that particular question with her and
29 come back to the Tribunal on it.

1 CHAIRMAN: well, I mean, the plain reality is that
2 Garda Keith Harrison has stood over this allegation and
3 said that's what Marisa Simms said to him, and it is
4 therefore here and I intend to make a finding of fact
5 on it, one way or the other. But if the rule in Browne 14:33
6 v. Dunn, which is simply that you put your client's
7 allegations to a witness to enable them in terms of
8 ordinary human fairness, if not in pursuit of the kind
9 of fairness that courts are supposed to pursue in
10 pursuit of the truth, if it is not put, well it's not 14:33
11 fair. But I have actually put it and the witness has
12 had a chance to reply, and beyond that I am saying
13 nothing --

14 MR. BARNES: well, we --

15 CHAIRMAN: -- at the moment. 14:33

16 MR. BARNES: Indeed. And we are not making that
17 allegation. Insofar as it was made in tandem in that
18 letter --

19 CHAIRMAN: Mr. Barnes, I don't think I need to hear any
20 more about this. The allegation is not now made, but 14:34
21 you have just put a question to the effect that,
22 somehow, this very explicit statement mentioning a
23 number of people, Sergeant McGowan, her supervisor
24 Bridgeen Smith, the fact that the visit was unnecessary
25 but that it was in consequence of Garda pressure, 14:34
26 you're saying now that that came across through some
27 form of communication, that, in my view, doesn't happen
28 very often and is not normally regarded as reliable,
29 what somebody thinks, in other words.

1 MR. BARNES: I thought -- yes, if I can come back to
2 the Tribunal on that, please. I have no further
3 questions.

4 CHAIRMAN: Mr. McDermott?

5 MR. MCDERMOTT: Chairman, I am happy with all the
6 issues that have been ventilated. 14:35

7 MR. HEGARTY: I would like to ask questions on behalf
8 of Sergeant McGowan, if I could.

9

10 MS. MCTEAGUE WAS CROSS-EXAMINED BY MR. HEGARTY: 14:35

11 365 Q. MR. HEGARTY: Ms. McTeague, I represent Sergeant Brigid
12 McGowan, one of the upset persons that the Chairman
13 referred to earlier. I wasn't here for your evidence
14 earlier in the morning but I understand that you
15 describe my client as professional, child-centred and 14:35
16 somebody who acts with the utmost integrity, am I right
17 in that?

18 A. That's correct.

19 366 Q. Yes. As far as I can see, there's four contacts,
20 points of contact between yourself and Sergeant McGowan 14:35
21 which we have a record of. So the first being the 9th
22 October?

23 A. Yes.

24 367 Q. The 21st October 2013?

25 A. Yes. 14:35

26 368 Q. And then the 27th January 2014?

27 A. Yes.

28 369 Q. And then the 7th February 2014, am I correct in that?

29 A. You are.

1 370 Q. So in relation to the contact on the 9th October, that
2 was an actual one-to-one meeting, am I right in that?
3 A. Yes.

4 371 Q. And at that meeting she would have given you,
5 obviously, details of what this referral was all about? 14:36
6 A. She did, yes.

7 372 Q. Yes. And I understand that you may not have a memory
8 of her telling you that a threat had been made by Garda
9 Keith Harrison to burn and bury Marisa Simms, but
10 that's her recollection, that's what she -- I'm 14:36
11 instructed to put to you that she said to you on that
12 date?
13 A. Yeah, I don't recollect it.

14 373 Q. Right.
15 A. I don't recollect that as part of the conversation. 14:36

16 374 Q. But you don't disagree it could have happened?
17 A. I don't.

18 375 Q. Thank you. So moving on then to the 21st October, that
19 was a strategy meeting. A strategy meeting, it's an
20 important event, isn't that correct? 14:37
21 A. That's correct.

22 376 Q. And you don't always have a strategy meeting unless the
23 facts surrounding the referral justify it?
24 A. That's correct.

25 377 Q. And at such a meeting there would be quite a lot of 14:37
26 detail discussed in relation to complaints, isn't that
27 right?
28 A. In general, yes.

29 378 Q. Yeah. Okay. And that's what happened on that date?

1 A. That's correct.

2 379 Q. Okay. Now, on the next date then, the 27th January
3 2014, there was a telephone call?

4 A. That's correct.

5 380 Q. Right. And do you remember, did you contact her or did 14:37
6 she contact you?

7 A. I made that call on that day.

8 381 Q. Right. And you contacted her in relation to obtaining
9 a report, I think it was, is that right?

10 A. The purpose of my phone call was to ascertain where the 14:38
11 Gardaí were at in terms of their investigation, if
12 there was any information that I required or needed in
13 order to progress my assessment. I was aware in
14 advance of making that phone call that Sergeant McGowan
15 had made attempts to contact me, and I her, but we both 14:38
16 missed one another.

17 382 Q. I understand that. So both of you actually tried to
18 contact each other but you missed each other, I do
19 understand that.

20 A. Yes. 14:38

21 383 Q. And when did you actually make the -- your memory of
22 making the request for the report, what date was that?

23 A. That was during my phone call on the 27th.

24 384 Q. Yeah. Okay. And I think in fairness to you, you said
25 yesterday that she may not have understood that you 14:38
26 were requesting her to give an actual written report?

27 A. Yes. She may not have had. I may not have been clear
28 enough, but that was my request.

29 385 Q. Okay. And obviously being involved in Tusla you have

1 processes, as do An Garda Síochána, and the sharing of
2 information, obviously there's protocols in place as to
3 how information is to be shared, would you agree with
4 that?

5 A. I do.

14:39

6 386 Q. I think you said earlier on that if you wanted a
7 particular report or statement, a request would be made
8 to the superintendent's office?

9 A. Currently that's our practice, yes.

10 387 Q. Which would make sense, because Superintendent McGovern
11 was the person who made the referral in this case,
12 isn't that right?

14:39

13 A. That's correct.

14 388 Q. So if you wanted, say, to see the actual formal
15 statement of complaint made by Marisa Simms on the 6th
16 October 2013, a request would be made to superintendent
17 for release of that statement?

14:39

18 A. The normal practice that I would have had at that time,
19 as I said it wasn't a normal request that we would have
20 made. What normally I would do is make the request
21 from the referring garda, so the garda who is making
22 the -- completing the Garda notification that
23 subsequently goes to Superintendent McGovern for
24 sign-off and onward transmission to Tusla. So my
25 initial request would normally be to the garda. But
26 you are correct in stating that, currently, a written
27 request is made to the relevant superintendent for
28 access to that information.

14:39

14:40

29 389 Q. Absolutely. And again, it's not a criticism, but no

1 such request was made on this occasion?

2 A. That's correct.

3 MR. HEGARTY: Okay. Thank you very much.

4 CHAIRMAN: Thanks, Mr. Hegarty.

5 MR. DIGNAM: Chairman, I just have two brief questions, 14:40
6 two brief areas.

7

8 MS. MCTEAGUE WAS CROSS-EXAMINED BY MR. DIGNAM:

9 390 Q. MR. DIGNAM: Ms. McTeague, my name is Conor Dignam. I
10 appear on behalf of An Garda Síochána. I just want to 14:40
11 ask you about the reporting form that was used in this
12 case. You recall your discussion with Mr. Harty and
13 you indicated that the standard reporting form wasn't
14 used or isn't used in Donegal, I can't remember whether
15 you said it in the past tense or the current tense. 14:41
16 Could I just ask you to look at page 1252 of the
17 booklet. Just to refresh your memory, Ms. McTeague,
18 this was in the context of Mr. Harty asking you,
19 essentially asking you why the Gardaí didn't notify
20 this as a welfare case rather than a child protection 14:41
21 or an abuse case. And in response to that you said
22 that the guards don't use the standard notification or
23 standard reporting form and that the form they use only
24 has four boxes, which doesn't include a welfare box, if
25 I might put it that way. Page 1252 is Appendix 5 of 14:41
26 the Children First Guidelines. Am I correct in saying
27 that that is the standard notification or standard
28 reporting form --

29 A. It is, yes.

1 391 Q. -- that you were referring to? And if I can just ask
2 you to look at point number 2, "Forms of abuse
3 suspected", and there's four boxes: "neglect",
4 "physical abuse", "emotional abuse" and "sexual abuse".
5 And there's no box there for welfare or a welfare case? 14:42

6 A. Yes.

7 392 Q. And if I can then ask you to look at page 402. It's
8 not very legible on the screen, Ms. McTeague. But do
9 you agree or do you accept that that is the reporting
10 form that was used in respect of one of the children in 14:42
11 this case?

12 A. I do, yes.

13 393 Q. Yes. And could you confirm that that is identical to
14 the Appendix 5 standard reporting form which we've just
15 looked at in the Children First Guidelines? 14:42

16 A. It is, yes.

17 394 Q. Yes. And there is no box in the standard reporting
18 form for welfare, isn't that right?

19 A. There is not, no.

20 395 Q. Yes. So all the Gardaí could do was tick the boxes 14:42
21 that they had in the standard reporting form, which you
22 accept was used in this case?

23 A. Yes.

24 396 Q. And that they ticked "emotional abuse"?

25 A. Yes. 14:43

26 397 Q. And then, of course, you are -- you're the expert,
27 Ms. McTeague, you're the, I suppose the child welfare
28 expert, if I might put it that way, and irrespective of
29 which box the Gardaí tick, even if they had a fifth one

1 for a welfare case, it's still up to you to decide what
2 type of case this actually is, isn't that correct?

3 A. That's correct, yes.

4 398 Q. And just finally, Ms. McTeague, you were asked about
5 your opinion by Mr. Barnes, and the way he put it was, 14:43
6 page 118 line 21 of the transcript today:

7
8 "That having heard the evidence and seen the materials,
9 would you agree with me that in attempting to build a
10 case of harassment --" as he put it, and then there's 14:44
11 another phrase "-- that that could possibly indicate an
12 animus on the part of the guards for good reason or bad
13 towards Keith Harrison?"

14
15 And you were asked for your opinion on that and you 14:44
16 said that you didn't see any evidence of an animus on
17 the part of the Gardaí. We know, Ms. McTeague, and I
18 think you know now, although you saw the statement some
19 time after these events, you know that the Gardaí had
20 in their possession a statement of complaint which had 14:44
21 been made by Ms. Simms in October, in which there was
22 evidence at that stage of harassment, involvement with
23 other women, a number of other occasions when Ms. Simms
24 left the family home, left the home late at night, and
25 there's some dispute about whether that was voluntary 14:44
26 or not, but even assuming it was voluntary, left the
27 home after rows in the middle of the night and asked
28 for her mother to come and collect her. You're a
29 professional social worker, Ms. McTeague; is it your

1 view that if there was an animus or malice towards
2 Garda Harrison, that that is all material which could
3 have been deployed, and one would reasonably expect
4 would be deployed, to do down Garda Harrison, if there
5 was that malice or animus against him?

14:45

6 A. Most definitely.

7 399 Q. And that wasn't -- you weren't informed of those
8 features of the case, isn't that right?

9 A. That's correct.

10 MR. DIGNAM: Thank you, Ms. McTeague.

14:45

11
12 MS. MCTEAGUE WAS RE-EXAMINED BY MR. MCGUINNESS:

13 400 Q. MR. MCGUINNESS: Ms. McTeague, just a couple of
14 matters. I wonder could you be shown page 1579. This
15 is the second page of a letter dated 10th February 2017
16 written by the solicitors on behalf of Garda Harrison
17 and Ms. Simms at the time, to Dr. Zappone, the minister
18 concerned. And on the second page at paragraph 5, the
19 last line of that, referring to the meeting on the 7th
20 February, it says:

14:45

21
22 "Ms. McTeague was satisfied to leave the matter as it
23 was, advising no further intervention was required."

24
25 Is that something that you said to them on that
26 occasion?

14:46

27 A. It's not, no.

28 401 Q. Did you say the following matter: "And that was the
29 end of it"?

1 A. No, definitely not. That's not language that I would
2 use in conversation with anyone. It's not what I said.
3 402 Q. Okay. Now, at paragraph 3, on the last line of that,
4 it says:
5
6 "We understand from the documentation received from
7 Tusla, no further information or referrals were
8 forwarded to Tusla."
9
10 Now, I think were you aware that a Freedom of
11 Information request had been made? 14:46
12 A. Only recently, only since I was in receipt of the
13 Tribunal documentation.
14 403 Q. All right. Okay. But certainly after that date
15 referred to in paragraph 3, 16th October, you had at 14:47
16 least four contacts with Ms. McGowan, Sergeant McGowan,
17 isn't that correct?
18 A. Em --
19 404 Q. The strategy meeting on the 21st?
20 A. Yes, the phone call at the end of January. 14:47
21 405 Q. Phone calls?
22 A. Yes, I had three.
23 406 Q. Three?
24 A. Yes.
25 407 Q. Three, in any event. So further information was 14:47
26 received --
27 A. That's correct.
28 408 Q. -- by you. I think certainly I would take it it would
29 have been most satisfactory and perhaps the best

1 position if you had received all of the pertinent
2 information either directly quoted from or excerpted
3 from the statement of complaint?

4 A. I think had I have received that, it would have allowed
5 me to make a more informed and thorough assessment of 14:47
6 all of the information.

7 409 Q. Okay. Going back then to paragraph 6, this says:
8
9 "However, later that evening Marisa received a phone
10 call from Ms. Donna McTeague explaining that she had 14:47
11 spoken to her supervisor, Bridgeen Smith, who stated,
12 as a result of a phone call from Gardaí, she was now
13 asking Ms. McTeague to do a home visit despite
14 Ms. McTeague earlier having confirmed that no further
15 action was needed." 14:48
16

17 Did such a phone call occur?

18 A. Not on the evening after the visit, no. And when I did
19 make a call to Ms. Simms on the 14th February,
20 absolutely no reference to what is said there occurred 14:48
21 in that conversation.

22 410 Q. Okay. Do you take that in conjunction with the other
23 statements that were made, as an allegation that the
24 Gardaí had interfered so as to make you do this, the
25 home visit? 14:48

26 A. Yes.

27 411 Q. Is there any truth in that at all?

28 A. Absolutely none. For the purpose of clarity, that
29 is -- it's -- it would be unacceptable at every level

1 for me as a professional even to think that somebody
2 outside of our agency would direct me to do anything.
3 This -- my engagement with the Simms family was on the
4 basis of my assessment and my assessment alone. It was
5 what I felt was best practice. And Sergeant McGowan or 14:49
6 nobody in the Gardaí has ever directed me to do
7 anything in this case.

8 412 Q. Okay. In the final paragraph it's stated that:

9
10 "The manner of the intervention of Tusla in our 14:49
11 clients' family life is a cause of concern and is by
12 any measure an inexcusable abuse of their position."

13
14 Now, you were the only person, in conjunction with
15 Ms. Wallace, who attended the meeting as a notetaker, 14:49
16 who had any direct personal dealings and through
17 correspondence with Garda Harrison and Marisa Simms.

18 Do you want to comment on that assertion that --
19 MR. HARTY: Sorry, sir, I'm going to interject at this
20 stage. If Mr. McGuinness wished to put this to the 14:49
21 witness, it doesn't arise from any of the

22 cross-examination that I gave, it is not a matter
23 which -- if Mr. McGuinness wished to lead this
24 evidence, he should have done so. It shouldn't arise
25 in re-examination at this stage. The witness has gone 14:50
26 through her evidence. I don't see any purpose for this
27 at this stage and how it can come about.

28 CHAIRMAN: No, I am absolutely satisfied that it does
29 arise, unfortunately, that it has to be done this way.

1 MR. HARTY: Then, sir, can I comment that it should
2 have been done in examination before cross-examination.

3 MR. MCGUINNESS: Well, I wish to reject that.

4 CHAIRMAN: I'm not sure that pejorative comments
5 against counsel, particularly one as responsible as
6 Mr. McGuinness and as careful in relation to the work
7 that he does, are actually helpful, and I actually
8 don't think there is anything to that.

14:50

9 413 Q. MR. MCGUINNESS: It goes on to say on the top of the
10 next page that:

14:50

11
12 "Tusla, without just cause or explanation, would
13 contact our clients, inviting them to a meeting."

14
15 That seems to be referable to your letter of the 3rd
16 February. I take it you don't agree with that?

14:50

17 A. No, I don't. In relation to the first sentence that
18 you read out just a moment ago, I accept fully that
19 Garda Harrison and Ms. Simms have not called into
20 question my engagement with them or being a nice person
21 or my professionalism or otherwise, and I would have
22 worried if they did, because our engagement with one
23 another was positive from my view and I had hoped so
24 from theirs, which I understand they are saying. The
25 issue for me in this Tribunal is that I have to
26 continue to work in the department. I hold a team
27 leader position, my name goes on the letters that go
28 out to all families for whom direct referrals are made
29 to our agency. And what is in writing here in this

14:51

14:51

1 letter and what is inferred in information that has
2 been shared with the Tribunal, is that I made contact
3 with them without just cause or explanation, and in the
4 previous page, if we can just go back to 1579, the
5 first line in the bottom of that says:

14:52

6
7 "The manner of intervention of Tusla in our clients'
8 family life is a cause of concern and is by any measure
9 an inexcusable abuse of their position."

10
11 At no point in time in my engagement with this family
12 did I abuse my position, did I abuse the power that I
13 hold as a social work professional. And I think it's
14 not about my feelings, it's certainly not about that,
15 but it's about my professional reputation. And having
16 that sent to effectively a Minister of State, who is my
17 employer, and not being allowed in any way to respond
18 to that until now, is a cause of concern for me, and
19 indeed for my line manager as well, because the
20 inference is made that we abused our power, and that is
21 not the case.

14:52

14:52

14:52

22 414 Q. On page 1580 a number of questions are set out there
23 that they would seem to like to have answered. In the
24 previous -- in the years previous to this, the three or
25 four years between -- well, February 2014 to February
26 2017, would you have had any difficulty answering any
27 of those questions had they been asked directly?

14:53

28 A. No, none at all. Not one.

29 415 Q. Obviously you made reference during the course of the

1 interview on the 7th February to the statement that
2 Marisa Simms had made to the Gardaí. You obviously
3 didn't ask her any questions about it?

4 A. No, I didn't.

5 416 Q. But when you did make reference to it, was there any 14:53
6 complaint made about the manner in which it had been
7 taken or any Garda impropriety of any type or
8 discourtesy or anything?

9 A. Nothing.

10 MR. MCGUINNESS: Thank you. 14:53
11

12 MS. MCTEAGUE WAS QUESTIONED BY THE CHAIRMAN:

13 417 Q. CHAIRMAN: Ms. McTeague, there was just one thing that
14 I was wondering about. You said in your statement,
15 let's suppose -- and we're speaking generally, we're 14:53
16 not speaking about this situation at all -- let's
17 suppose a lady, Ms. A, goes in and says my domestic
18 partner has been abusive and that the children are
19 suffering in consequence, or something to that effect,
20 you get the drift? 14:54

21 A. Yes.

22 418 Q. CHAIRMAN: And then that comes to you, but it's a
23 domestic violence or domestic aggravation type
24 situation where the statement is withdrawn, you said
25 nonetheless you still need to follow that up and ask 14:54
26 questions. Well, why is that when the statement is
27 withdrawn?

28 A. In my experience, Judge, where there's domestic abuse
29 in a relationship, people feel empowered at some point

1 to make a statement of complaint or to share the
2 information that is happening in their lives. Their
3 relationship then can change or something positive
4 happens and they think, oh, well, maybe I won't do that
5 now or I don't want to proceed with this, and they can 14:55
6 withdraw that statement of complaint. That is a
7 characteristic quite often in domestically abusive
8 relationships. I think it is important to highlight as
9 well, domestic abuse isn't just about physical
10 violence; it is about emotional violence, financial 14:55
11 abuse, psychological abuse. So when someone makes a
12 statement of complaint to the Gardaí or shares
13 information with anybody and says this has happened to
14 me and it has affected my children, and then maybe a
15 week or two weeks or three months later says, well, no, 14:55
16 it didn't happen, I am still going to want to find out
17 why did they take that back and did the actual event
18 that they talked about happen and what is going on in
19 this relationship. Because my job isn't just about,
20 you know, finding fault in people; it is about how do I 14:55
21 support them. So I am always going to follow up on
22 that. I mightn't do it the next day or the next week,
23 but when I have the opportunity within the workload
24 that I have, I am always going to follow up on it for
25 those reasons. 14:55

26 419 Q. CHAIRMAN: Yes. Let's suppose the statement says -- I
27 suppose goes even stronger, not just I don't want this
28 statement acted upon, but let's say it says, well, in
29 making this statement I was deeply upset at the time

1 and furthermore I have an LSD addiction, or something
2 like that, would, nonetheless, you still ask the
3 questions if that was the reason given for withdrawing
4 the statement?

5 A. Yes, I would, and the reason for that is, you have got 14:56
6 to look at the dynamics in a relationship where that
7 may occur and the coercion that could be placed on any
8 individual to withdraw or retract that information or
9 fear of repercussions for having said something against
10 a partner, in a relationship, a marriage. Even within 14:56
11 parent and child relationships, we have often come
12 across where parents are making allegations against
13 their children and then they withdraw them, when there
14 is abuse in families. So it is important that I always
15 follow up, because at the end of the day there may be 14:56
16 children that are vulnerable in those situations, and
17 if I can provide support and have an informed
18 assessment, that will help me to do that.

19 420 Q. CHAIRMAN: well, certainly I think practitioners in the
20 criminal courts would be aware of situations where, for 14:57
21 instance, a father would be charged with very severe
22 physical violence, using his belt, let us say, on a
23 child, and then when it comes to the court case that
24 there is no evidence, obviously that happens. But even
25 with an explanation, you seem to be saying, well, you 14:57
26 need to actually look at the explanation and you need
27 to look at the circumstance which led to making the
28 statement?

29 A. Yes.

1 421 Q. CHAIRMAN: And that is usually best done by speaking to
2 the person who made the statement one-to-one?

3 A. Yes.

4 422 Q. CHAIRMAN: You mean in the absence of the other party,
5 be it the father or the husband or the partner? 14:57

6 A. Yeah, and obviously allow them a right of reply also.

7 423 Q. CHAIRMAN: Yes.

8 A. Yeah.

9 424 Q. CHAIRMAN: Later on?

10 A. Yes. 14:57

11 425 Q. CHAIRMAN: And you may not be able to answer this
12 question, I don't know, but are we talking about a
13 significant percentage of domestic violence cases, and
14 if you can estimate it, what are we talking about?

15 A. Sorry? 14:57

16 426 Q. CHAIRMAN: Well, you are saying it happens?

17 A. Yes.

18 427 Q. CHAIRMAN: Obviously the experience of a criminal
19 practitioner would be pretty limited because it is
20 usually charges that go to court? 14:57

21 A. Yes.

22 428 Q. CHAIRMAN: And I suppose they are very much the tip of
23 the tip of the iceberg?

24 A. Yes.

25 429 Q. CHAIRMAN: But is it a substantial portion of cases in 14:58
26 domestic violence cases where statements of complaint
27 are withdrawn?

28 A. Yeah, currently, as I explained, I'm the team leader in
29 Donegal for the entire county, and the stats that we

1 have currently, in terms of referral rate, the
2 predominant feature of referral to the social work
3 Department are alcohol-fuelled incidents of violence or
4 alcohol-fuelled incidents that require Gardaí to call
5 to a family home. Quite often in those cases you don't 14:58
6 have statements made at all but which would warrant a
7 statement. So in terms of, is there a percentage of
8 people who make statements and withdraw them, I
9 couldn't give you a number on that, but what I do know
10 is that where statements could be made on the basis of 14:58
11 information that we have and the work that we do,
12 statements are not made.

13 430 Q. CHAIRMAN: Yes.

14 A. So when they are made and then withdrawn, it leads me
15 to believe, well, something has happened here. 14:58

16 431 Q. CHAIRMAN: Yes. Well, I know I was at a conference
17 recently where a judge commented in relation to his
18 particular area, which was, I think, Birmingham, where
19 they had moved the local court out of the area where
20 families were living and instead put in a glass-fronted 14:59
21 building that you could see right through in the centre
22 of Birmingham, and the comment he made was, well, look,
23 it's much less suitable for those who are suffering
24 from domestic violence --

25 A. Yes, of course. 14:59

26 432 Q. CHAIRMAN: -- to have to come into the middle of town
27 and go in through a glass-fronted building. I mean, is
28 that a sensible comment, or is that a --

29 A. That's a very sensible comment. I think you've got to

1 look at, domestically-abusive relationships can be a
2 one-off act of violence or they can be something that
3 is perpetrated over a period of time.

4 433 Q. CHAIRMAN: In other words, it can be an explosion?
5 A. Yeah, it can be a one-off event, exactly, or one or two 14:59
6 events over -- and then somebody decides, okay, I'm not
7 going to put up with this and I am out of here.
8 Domestically-abusive relationships quite often are
9 categorised by small, subtle, and, sort of, for want of
10 a better analogy, it's like picking away at a scab all 14:59
11 the time until you just keep going and going, and it
12 wears individuals down, and that makes them vulnerable
13 then to protect their children, which is where we end
14 up becoming involved; we help to support them to be
15 able to protect themselves and their children. And I 15:00
16 think the description of a glass-fronted building in a
17 city would be the most inappropriate place to hold a
18 court, where you have somebody who is already
19 vulnerable in the public eye in that way. I think it
20 would be wholly inappropriate. 15:00

21 434 Q. CHAIRMAN: Yes. All right. Well, those are obviously
22 wider questions in many ways.
23 A. Yes.

24 435 Q. CHAIRMAN: But thanks for the help.
25
26 THE WITNESS THEN WITHDREW
27
28 MR. MCGUINNESS: Chairman, the next witness is
29 Ms. Naomi Wallace.

1 CHAIRMAN: She is a short witness?

2 MR. MCGUINNESS: Yes.

3

4 MS. NAOMI WALLACE, HAVING BEEN SWORN, WAS DIRECTLY

5 EXAMINED BY MR. MCGUINNESS:

15:01

6 436 Q. MR. MCGUINNESS: Ms. Wallace, thank you. I think you
7 are currently employed in the Child Protection Welfare
8 Team since March 2013?

9 A. Yes, that's correct.

10 437 Q. And I think you have been employed by the Child and
11 Family Agency, formerly the HSE, since January 2003?

15:01

12 A. Yes. Prior to my employment in the community in the
13 Child Protection Team I was ten years in children's
14 residential services.

15 438 Q. And I think you have a BA from the NUI Maynooth, a BA
16 in applied social studies in 2007 from the Institute of
17 Technology and a diploma in drug and alcohol studies?

15:01

18 A. Yes, that's correct.

19 439 Q. And I think your involvement in this was attending a
20 meeting with Ms. McTeague, the previous witness, when
21 she met Ms. Marisa Simms and Garda Keith Harrison?

15:01

22 A. Yes, that's correct.

23 440 Q. And had you prepared for the meeting in any way by
24 reading the file such as it was or discussing it with
25 Ms. McTeague?

15:02

26 A. No, not at all. I had no access to the file at any
27 point.

28 441 Q. So you were there purely in a note-recording capacity,
29 is that right?

1 A. Yes, that's correct, yes.

2 442 Q. And did you have any conversation or any interaction
3 with Garda Harrison and Ms. Simms during that?

4 A. No.

5 443 Q. I think you did record notes? 15:02

6 A. I did, yeah.

7 444 Q. I think were they initially handwritten notes?

8 A. Yes, initially they were handwritten and I typed them
9 up into a word document and shredded my handwritten
10 notes. 15:02

11 445 Q. Okay. Could you look at page 145 and 146 of our
12 documents. They will be shown on screen there.

13 A. Yes.

14 446 Q. Is that a true copy of the document that you prepared?

15 A. Yes. 15:02

16 447 Q. Okay. May I take it that you left nothing out from
17 your notes that you had, in fact, recorded?

18 A. Yes, I had inserted everything.

19 448 Q. Okay. I am just going to ask you one thing about it.
20 In the bottom third of that you record as follows: 15:03

21

22 "Donna explained to the couple that she would have to
23 inform the children's father. The couple agreed and
24 understood this had to happen. Donna also explained
25 that she may have to visit and speak to the children. 15:03

26 Both agreed to this and Marisa said 'you're more than
27 welcome to come'. Donna explained the next step in the
28 process and took Marisa's number."

29 A. Yes.

1 449 Q. Now, it would seem that you didn't record her saying
2 that there would be no further intervention, that was
3 the end of the matter. Was anything like that said?
4 A. Not to my recollection.

5 450 Q. All right. In terms of what Donna said about "may have 15:03
6 to visit", did she convey in any way that this mightn't
7 well be necessary and it could be the end of it?
8 A. No. Even what I have written there, "Both agreed to
9 this and Marisa said 'you're more than welcome to
10 come'," that would imply that there was an 15:04
11 understanding that it was to take place.

12 451 Q. Okay. Can you say whether, as part of an initial
13 assessment and perhaps the conclusion of it, would it
14 be normal to have a home visit to view children?
15 A. I would have very little experience of initial 15:04
16 assessments. I don't do them at all.

17 452 Q. In terms of the analysis that's recorded at the bottom
18 of this document --
19 A. Yes.

20 453 Q. -- was that discussed with you? 15:04
21 A. No.

22 454 Q. Or was that prepared by Ms. McTeague?
23 A. Yes, that was put on to the document after I had
24 emailed over my notes.

25 455 Q. All right. Did you have any discussion afterwards with 15:04
26 Ms. McTeague about what she was, in fact, going to do
27 or did she volunteer --
28 A. No.

29 456 Q. -- what she was going to do?

1 A. No. I was asked to take minutes, I took the minutes, I
2 typed them up, emailed them over. As I didn't have
3 access to the file, that was it. There was -- I didn't
4 hear anything after.

5 457 Q. Okay. But in the context of the last sentence you did 15:05
6 record there "Donna explained the next step". Can you
7 recall what she said?

8 A. I don't recall the details of what she said. The only
9 thing I do recall is that I remember her saying
10 "assessment". But I don't recall in the context of it 15:05
11 or --

12 458 Q. Is that in terms of perhaps writing it up or assessing
13 the children, or maybe both?

14 A. Maybe both. I actually don't recall, yeah.
15 MR. MCGUINNESS: All right. Thank you. Thank you, 15:05
16 Ms. Wallace. If you would answer any questions.
17

18 MS. WALLACE WAS CROSS-EXAMINED BY MR. DALY:

19 459 Q. MR. DALY: Ms. Wallace, my name is Peter Daly. I
20 appear for Garda Harrison. I have a couple of very 15:05
21 quick questions for you. In your direct evidence you
22 said that this note, that nothing was left out, is that
23 the position?

24 A. Yes. To my knowledge, it's concise and it has
25 everything that needs to be in it. 15:06

26 460 Q. Right. And it's not a verbatim note of what was
27 exchanged between --

28 A. No.

29 461 Q. No. And in relation to, how long did the meeting last?

1 A. Not very long. Maybe up to half an hour.

2 462 Q. Right. And would you agree with me that perhaps half
3 an hour of discussion, that there was obviously more
4 that was said than what is recorded in this, just over
5 a page-long document? 15:06

6 A. I believe the salient points are mentioned, are noted
7 in that.

8 463 Q. In relation to the -- you said there was reference to a
9 word "assessment". Would you agree with me that
10 perhaps this word was used in the context of, well, 15:06
11 this completes the assessment, and that there is
12 nothing further to arise as a result?

13 A. No, I didn't find the meeting was final. When we left
14 the room, I didn't feel -- I didn't get that feeling,
15 that the meeting was final. 15:07

16 464 Q. But you note there that there's reference to there may
17 be a visit, there's nothing definitive there, that
18 there was a visit to follow or that wasn't directed,
19 and it's not noted by you that there was a visit to
20 follow? 15:07

21 A. I think it is pertinent that a visit was mentioned and
22 that she may have to visit and speak to the children.
23 "Both agreed to this and Marisa said 'you're more than
24 welcome to come'" would imply that they were to expect
25 it. 15:07

26 MR. DALY: Thank you, Ms. Wallace.

27 CHAIRMAN: Is there any questions? Mr. McDermott?

28 MR. MCDERMOTT: No, thank you.

29 MR. MULLANEY: No questions on behalf of Ms. Simms,

1 Chairman.

2 MR. DIGNAM: No questions.

3 MR. MCGUINNESS: Thank you, Ms. Wallace.

4

5 THE WITNESS THEN WITHDREW 15:07

6

7 MR. MCGUINNESS: The next witness, sir, is Ms. Bridgeen

8 Smith. Her statement is to be found at volume 4, page

9 1152, and volume 7, page 2429.

10 15:08

11 MS. BRIDGEEN SMITH, HAVING BEEN SWORN, WAS DIRECTLY

12 EXAMINED BY MR. MCGUINNESS:

13 465 Q. MR. MCGUINNESS: Ms. Smith, I think you work for the

14 Tusla Child and Family Agency at Scally Place, Justice

15 Walsh Road, Letterkenny, County Donegal? 15:08

16 A. Yes, that's correct.

17 466 Q. I think you're a principal social worker?

18 A. Yes, that's correct.

19 467 Q. And I think you have been employed with the agency

20 since November 2004? 15:08

21 A. November 2005.

22 468 Q. November 2005. And you worked as a child protection

23 social worker until December 2010?

24 A. Yes, that's correct.

25 469 Q. And then as a protection team leader from December 2010 15:09

26 until February 2016?

27 A. Yes, that's correct. I would have had -- between the

28 year 2011 and 2012 I would have had intermittent

29 periods of covering as team leader and acting as a

1 senior social worker on the team.

2 470 Q. And I think you've worked as a principal social worker
3 since February 2016 to date?

4 A. Yes, that's correct.

5 471 Q. But back in October 2013 I think you were team leader? 15:09

6 A. Yes, that's correct.

7 472 Q. And could you just explain how that relates to
8 Ms. McTeague and her position? What was your duties in
9 relation to her?

10 A. Yes, Judge. As a team leader within the East Central 15:09
11 Child Protection Team, I would have managed five social
12 workers and I would have had one duty social worker.
13 There would have normally have been two duty workers,
14 but on that -- at that particular time there was only
15 one, and that was Ms. McTeague. I would have had the 15:09
16 clinical oversight of all of the cases that came into
17 the team and the management of the staff in terms of
18 the work that they would have carried out with the
19 families.

20 473 Q. Now, did you receive the referral on in this case from 15:10
21 Mr. Hone, did it come to your notice?

22 A. Yes, it did. I recall being off the week of the 7th
23 October and I recall coming back to work the following
24 week. I would have had a handover from Ms. Coll, who
25 was covering for me the week before, and sporadically 15:10
26 throughout that week I would have had ongoing
27 conversations with Ms. McTeague about cases that were
28 coming in and out of the department.

29 474 Q. Now, we have seen Mr. Hone's letter back to

1 Superintendent McGovern, and there's been
2 interpretations of what it meant or what it was
3 intended to be in the process, but what is your
4 evidence in that regard?
5 CHAIRMAN: Just if you wouldn't mind, Mr. McGuinness, 15:10
6 the page number and the dates, I am afraid they are
7 passing me by.
8 MR. MCGUINNESS: It's page 115.
9 CHAIRMAN: And the date of that?
10 MR. MCGUINNESS: The date is 16th October 2013. It 15:11
11 should be on the screen there, hopefully.
12 475 Q. Did you see that letter, in fact, or were you aware of
13 it?
14 A. Yes, I was.
15 476 Q. And what did you understand that letter to be saying? 15:11
16 A. My understanding of that letter, Judge, would have been
17 a trigger back to the guards to provide us with more
18 information. That was not an unusual letter that we
19 would have seen going between the two departments.
20 477 Q. It seems to be clearly indicating that HSE aren't going 15:11
21 to do anything, but it's not a refusal to do anything;
22 it's, you're doing nothing until further information,
23 is that --
24 A. Yes, that's correct. Yes, that's correct.
25 478 Q. But it does appear, and we've seen the succeeding 15:11
26 documents, that intake records were created on the 16th
27 and apparently signed off by you then, is that correct?
28 A. Yes, that's correct.
29 479 Q. If we go to the bottom of page 118. Now, no action is

1 taken by the Health Board at this point in time other
2 than this. why is this being done in the absence of
3 any other information?

4 A. That is to generate a file to open up on the system so
5 that when we are able to get more information from the 15:12
6 Gardaí, we can record it.

7 480 Q. Okay. Is that a normal step?

8 A. Yes, absolutely.

9 481 Q. Is there anything unusual or abnormal about the
10 referrals that Superintendent McGovern had sent in, to 15:12
11 your eye?

12 A. In that particular case there is an absence of
13 information, but that would have been not an isolated
14 incident. There would have been times when we would
15 have had referrals coming into the department that we 15:12
16 would have needed further information from the Gardaí
17 for us to conclude our assessment.

18 482 Q. Yes. And did you become aware of a proposed strategy
19 meeting?

20 A. Yes, I did. 15:13

21 483 Q. And did you attend that?

22 A. I did.

23 484 Q. And in terms of your practice as regards note-taking,
24 did you take any note at that time?

25 A. No, Ms. McTeague took the notes. 15:13

26 485 Q. What is the purpose of you attending the meeting?

27 A. I chair the strategy meeting.

28 486 Q. Now, is this a meeting dealing with lots of cases or
29 just this case?

1 A. Sometimes we deal with more than one case.

2 487 Q. Yes.

3 A. I recall talking about this case obviously, Judge, but
4 I do recall talking about another case subsequently,
5 afterwards. But I don't know if the strategy meeting 15:13
6 was set up specifically to deal with this case or to
7 deal with both cases --

8 488 Q. Okay.

9 A. -- on this occasion.

10 489 Q. Okay. Well, we have seen a printed form recording some 15:13
11 typed minutes relating to the meeting at page 124.
12 Perhaps we will just look at those. At paragraph 3,
13 for a start, part 3 and then section B. Was this
14 prepared then subsequent to the meeting as far as part
15 3 is concerned there? 15:14

16 A. No, that would have been -- we would have had a
17 printout of the document, and that would have been
18 recorded at the time.

19 490 Q. Okay. So that is more or less what the guards have put
20 on the form? 15:14

21 A. Well, the purpose of the strategy meeting, that's what
22 that is.

23 491 Q. The purpose of it?

24 A. Yeah.

25 492 Q. Okay. Now, at part 5 are the minutes that are there 15:14
26 included. Is that the normal level of information
27 that's recorded?

28 A. Any child welfare case potentially. In a child
29 protection case there would have been much more

1 detailed minutes.

2 493 Q. Okay. And was this categorised at this stage as a
3 priority 2, or had that already been done?

4 A. That would have been done in advance, whenever we
5 received the information on the 16th. 15:15

6 494 Q. Okay. Now, what is your recollection of what
7 discussion there was at that meeting about the reason
8 for the referral?

9 A. My recollection, Judge, is that there was myself,
10 Ms. McTeague and Sergeant Bridget McGowan in 15:15
11 attendance. I recall Sergeant McGowan advising us that
12 she had received a statement of complaint from Marisa
13 Simms. She said it was a lengthy statement where she
14 had described controlling behaviours of Mr. Keith
15 Harrison towards her. She talked about there was an 15:15
16 incident that occurred in the family home, where the
17 children, at that particular time I was led to believe
18 it was two children, had witnessed a domestic dispute.

19 CHAIRMAN: Yes, I note there it says "when
20 child/children were present". So it seems to have been 15:15
21 uncertain as to whether it was one or two.

22 A. That's correct.

23 495 Q. MR. MCGUINNESS: In your statement you seem to describe
24 or recollect having a discussion with Ms. McTeague
25 after the report, the referral had been received, but 15:16
26 prior to the strategy meeting, is that right?

27 A. Yes, that's correct. Because I had been off the
28 previous week, when the discussion took place with
29 Sergeant McGowan I believe on the 9th October, I wasn't

1 party to that information, so when the Garda
2 notification was received to our team, Ms. McTeague
3 told me that she had spoken with Sergeant McGowan and
4 that the information that she had received was that
5 there was an alcohol-fuelled disruption, I suppose, in 15:16
6 the family home.

7 496 Q. Okay. As short and as general as that?

8 A. Yes, that's correct.

9 497 Q. Well, at the strategy meeting, can you recollect what
10 was described? 15:16

11 A. I recall sergeant McGowan advising us that there was a
12 domestic dispute in the family home, that there was
13 alcohol taken by Garda Keith Harrison, that Marisa
14 Simms was trying to leave the family home, that the
15 children had witnessed this, that there was -- I don't 15:17
16 believe that there was threats, word used of threats
17 used at that particular time, but that it was a heated
18 disruption really in the family home.

19 498 Q. Well, did you form any view as to the necessity or
20 otherwise, or desirability or otherwise, of progressing 15:17
21 the matter, and, if so, on what basis?

22 A. Initially at the start of the meeting Ms. McTeague
23 would have advised me, Judge, of the previous referral
24 in relation to the children. So at that point in time
25 I would have known that we now had two referrals into 15:17
26 the system in respect to the Simms children, albeit she
27 advised me that the first referral had been closed
28 because there was insufficient information. But I
29 would also have been aware that the original complaint

1 was in relation to Mr. Simms' ability to care for the
2 children, whilst there was allegations made that Marisa
3 Simms was in a relationship with Garda Keith Harrison.
4 So I would have had a suspicion that there was
5 potentially some truth to the first referral that came 15:18
6 into the department, and then coupled with a second
7 incident being reported where there had been a dispute
8 in the family home, alcohol misuse and the children
9 being present, then I would have been more worried in
10 respect of the welfare of the children. 15:18

11 499 Q. Could I ask you for your comment in relation to page
12 130, recommendation number 2:

13

14 "Social work Department not to contact Ms. Simms until
15 confirmation from Sergeant McGowan that the matter can 15:18
16 be progressed by the Social work Department."

17

18 You were present when that was agreed, is that right?

19 A. Yes, that's correct. And I would have been of the view
20 that Mr. Harrison and Ms. Simms were no longer in a 15:18
21 relationship. So my understanding at that particular
22 time was that the risk had been removed and therefore
23 this was a welfare case and we would have been
24 progressing to complete our initial assessment on that
25 basis. 15:19

26 500 Q. You see, an interpretation could be put on this, and
27 perhaps was being put on this at certainly some stage,
28 that Sergeant McGowan, or the Gardaí on whose behalf
29 she was acting, were in some way, as it were,

1 controlling the department in terms of how they would
2 interact or maybe when they would interact with
3 Ms. Simms?

4 A. That's absolutely and categorically not true.

5 501 Q. Well, is this an unusual recommendation? Have you seen 15:19
6 this sort of recommendation in other intake forms?

7 A. I certainly would have agreed courses of actions with
8 Sergeant McGowan or any other sergeant in the Donegal
9 division in respect of how we would progress with
10 regard to our joint working relationship with a family. 15:19

11 502 Q. But did you think this was a reasonable step to take at
12 the time?

13 A. Absolutely.

14 CHAIRMAN: Sorry, Mr. McGuinness, I just missed it. I
15 may be wrong here. You're looking at recommendation 1: 15:20
16
17 "Social work Department to liaise with Gardaí to
18 ascertain when Ms. Simms is in a position to progress
19 matter."
20
21 And then recommendation 2:
22
23 "SWD not to contact Ms. Simms until confirmation from
24 Sergeant McGowan that matter can be progressed by the
25 SWD." 15:20
26
27 And then:
28
29 "Minute: Garda aware that Ms. Simms recently

1 hospitalised and further investigations to be conducted
2 when Marisa regains health."

3
4 Is that the overall context of what you are --

5 MR. MCGUINNESS: Yes, I think it is. 15:20

6 503 Q. But it seems to be premised, or is it premised, on
7 Ms. Simms wishing to, as opposed to also being able to,
8 progress matters if she was well enough? Were you
9 being led to believe that Ms. Simms wanted to progress
10 matters, as far as this referral was concerned? 15:20

11 A. My understanding was that Ms. Simms was unwell, and
12 Sergeant McGowan was asking us to just hold back in
13 terms of our inquiries with the family until she was
14 well enough to engage with us.

15 504 Q. Well, can I ask you this: If there hadn't been that 15:21
16 discussion about holding back, what would you be likely
17 to have done, in fact, at that time?

18 A. We more than likely would have organised a meeting,
19 which happened in due course.

20 505 Q. So is it just an issue of, as it were, the promptness 15:21
21 of the response, the timeliness of the response; the
22 response would have been the same, is that right?

23 A. Yes, that's correct.

24 506 Q. Now, I think you never met Garda Harrison or Ms. Simms
25 in connection with this? 15:21

26 A. That's correct.

27 507 Q. But at what stage were you consulted next?

28 A. I would have regularly had consultation with
29 Ms. McTeague as her direct line manager. We would have

1 talked about cases coming in and out of the team
2 regularly on a weekly basis. As I had stated earlier,
3 Judge, there would have been -- should have been two
4 duty social workers in the team at that particular
5 time, and Ms. McTeague was effectively doing the job of 15:22
6 two workers, not one social worker. So I would have
7 had regular conversations with her about her case load
8 and I would have been eager to make sure that cases
9 were moved on as quickly as possible so that there was
10 no congestion, I suppose, at the front, at the front 15:22
11 door.

12 508 Q. Now, were you aware or did you have any hand, act or
13 part in sanctioning the issuing of the letter of the
14 3rd February inviting them in for a meeting?

15 A. No. But I would have been aware that Ms. McTeague was 15:22
16 going to do that.

17 509 Q. Okay.

18 CHAIRMAN: Maybe you could be so kind as to give me a
19 page number for that particular letter, Mr. McGuinness,
20 if you can, please? 15:22

21 MR. MCGUINNESS: Yes.

22 CHAIRMAN: I know it is here somewhere but --

23 MR. MCGUINNESS: I think it is 144.

24 CHAIRMAN: It's 144, is it?

25 MR. MCGUINNESS: 144. 15:23

26 CHAIRMAN: Yes.

27 510 Q. MR. MCGUINNESS: And were you made aware of the
28 discussion that had occurred at the meeting of the 7th
29 February after it had taken place?

1 A. Yes. Ms. McTeague would have fed back to me that she
2 felt that there was, I suppose, a reasonable
3 explanation given by the parents in respect to what had
4 happened back in October and given the context of the
5 environment in which the couple were experiencing. 15:23

6 511 Q. I mean, did you review the notes of the meeting that
7 had been prepared and inputted on the system, as it
8 were?

9 A. I would have viewed those notes at the time I was
10 reviewing the initial assessment and in advance of 15:23
11 closing the case.

12 512 Q. So the analysis that was included, for instance, on
13 page 137, do you see that? It's box number 11:
14 "Analysis/summary of initial assessment".

15 A. Yes. 15:24

16 513 Q. Does that reflect any input from you or as a result of
17 any discussion with you?

18 A. I would have spoke with Ms. McTeague about it at the
19 time and we would have agreed that that was a course of
20 action. I would have been happy with her assessment. 15:24
21 That would have been her assessment of her involvement
22 with the family.

23 514 Q. Yes. But perhaps I'm not being specific enough. Did
24 you review this after it was included or did you have
25 that discussion with Ms. McTeague before it was 15:24
26 inputted?

27 A. Oh, I would have had discussions with her before it was
28 inputted.

29 515 Q. Okay. well, it doesn't seem to address the issue of an

1 intended visit, is that right?

2 A. In the analysis?

3 516 Q. Yes.

4 A. The analysis is a summary of the work carried out by
5 the social worker.

15:25

6 CHAIRMAN: I'm just looking at the paragraph in the
7 middle, the box. I hope I'm looking at the same
8 document, Mr. McGuinness, as you and --

9 MR. MCGUINNESS: Yes.

10 CHAIRMAN: -- the witness.

15:25

11 "Donna also explained that she may have to visit and
12 speak to the children. Both agreed to this and Marisa
13 said 'you're more than welcome to come'."

14 MR. MCGUINNESS: That's in the meeting, that's a note
15 of the meeting.

15:25

16 CHAIRMAN: Yes, that's what I was wondering about. Are
17 we at the meeting now?

18 MR. MCGUINNESS: Yes, we are. But I'm looking at the
19 box down below that reflects the discussion with
20 Ms. McTeague and Ms. Smith.

15:25

21 CHAIRMAN: Oh, I see. I beg your pardon. I'm looking
22 at the wrong place.

23 517 Q. MR. MCGUINNESS: I am just asking the question, because
24 it doesn't appear to reflect any either consideration
25 of plan of actually going to do the visit, as it were.
26 Can you recollect discussing that with Ms. McTeague?

15:25

27 A. I recall speaking with Ms. McTeague about her course of
28 action following her meeting with Mr. Keith Harrison
29 and Ms. Simms and I recall the agreement that she would

1 go and meet the children.

2 518 Q. Okay. I don't know, did she come to you at that stage
3 or update you about any information or lack of
4 information that she was getting from Sergeant McGowan
5 about the precise details of what was in the complaint? 15:26

6 A. No, I don't recall that.

7 519 Q. Okay. I take it you've seen obviously from the various
8 papers available that there was a lot of information in
9 the statement, virtually a very small amount made their
10 way in a very summary form to the HSE. Is that a 15:26
11 matter of concern for you?

12 A. At that particular time, Judge, we would have -- in our
13 liaisons with the Gardaí, we would have generally only
14 have gotten the information that would have been
15 pertinent to the incident that concerned the child. 15:27
16 That practice has now changed, and it's, to be clear,
17 we do get regular access to witness statements when we
18 request.

19 520 Q. The next record from the 7th onwards seems to be a
20 record of a phone call on the 14th that Ms. McTeague 15:27
21 had with Ms. Simms. Did you in any way direct her to
22 have a home visit?

23 A. No, that would have been general practice. We would
24 have talked about the next course of action after she
25 had met with Ms. Simms and Mr. Harrison, but that would 15:27
26 have been part of her assessment.

27 CHAIRMAN: Which bit of the page is that,
28 Mr. McGuinness? I'm sorry. Well, I know -- yes.

29 MR. MCGUINNESS: I'm sorry, Judge, I have jumped

1 forward to the record of the phone call --
2 CHAIRMAN: Yes.
3 MR. MCGUINNESS: -- of the 14th February.
4 CHAIRMAN: Yes. "Rang to arrange home" -- which is
5 what page? 15:28
6 MR. MCGUINNESS: It's on page -- at the top of page
7 151.
8 CHAIRMAN: Is it? Okay. Yes.
9 "Telephone call to Marisa Simms. Purpose of call: To
10 arrange home visit to meet the children. Confirmed 15:28
11 visit for Wednesday the 19th at 3:45."
12 MR. MCGUINNESS: Yes.
13 CHAIRMAN: I understood it, maybe I am wrong, but I was
14 under the impression it took place at 10:30am because
15 there was a question of ringing Sergeant McGowan. Am I 15:28
16 wrong in thinking that?
17 MR. MCGUINNESS: That is the first meeting on the 7th.
18 CHAIRMAN: All right. I have you. Thank you.
19 MR. MCGUINNESS: This is the note of the 14th.
20 CHAIRMAN: Yes. 15:28
21 MR. MCGUINNESS: And if we go back then to page 150, it
22 gives the actual date of that, without a particular
23 time, towards the bottom of that page.
24 521 Q. But in advance of Ms. McTeague deciding to do the home
25 visit or arranging the home visit, did you have any 15:29
26 discussion with her about, you know, clearing it with
27 the guards or getting advice from the Gardaí as to
28 whether they thought it needed to be done?
29 A. Absolutely not.

1 522 Q. And you yourself, did you have any conversation with
2 any member of the Garda Síochána about the prospect of
3 a home visit or whether they thought it might be better
4 just to square things off to do that?
5 A. Absolutely not. 15:29

6 523 Q. Did you say to Donna McTeague on any occasion that
7 Sergeant McGowan wanted this visit to go ahead or that
8 you discussed it with her?
9 A. Never.

10 524 Q. On page 149, at the bottom half of that page, this is 15:29
11 the input note, going on to page 150, concerning the
12 visit. And was that discussed with you prior to
13 Ms. McTeague inputting that, or did you read that after
14 she had input that?
15 A. I would have read that after she had inputted it onto 15:30
16 the system. I recall Ms. McTeague telling me that she
17 had met Ms. Simms and Mr. Harrison. I recall her
18 telling me that she was going out to meet the children,
19 as per process. I would have recalled her telling me
20 afterwards that she had no concerns in respect of the 15:30
21 children. We would have talked about the case a bit
22 more in detail at that particular time and then we
23 would have moved to looking to close the case.

24 525 Q. Okay. And the letter at page 148, that's under your
25 hand, that was directed to Sergeant McGowan, and page 15:31
26 147 is directed to Ms. Simms?
27 A. That's correct.

28 526 Q. And you signed the original of both of those, did you?
29 A. That's correct, yes.

1 527 Q. And they differ in content, obviously. One is
2 informational, as it were, to the sergeant, and this
3 refers to the Data Protection Act, etcetera, and
4 concludes by saying:

15:31

5
6 "Should you have any further questions/concerns, please
7 do not hesitate to contact Donna McTeague, duty social
8 worker, on the above number."

9
10 Were you ever made aware of any contacts or questions
11 in the next few years --

15:31

12 A. Absolutely not.

13 528 Q. -- about the intervention of Tusla --

14 A. No.

15 529 Q. -- or any abuse of power alleged?

15:32

16 A. No.

17 MR. MCGUINNESS: would you answer any questions anyone
18 else may have.

19

20 MS. SMITH WAS CROSS-EXAMINED BY MR. HARTY:

15:32

21 530 Q. MR. HARTY: Ms. Smith, good afternoon. I am counsel
22 for Mr. Harrison - Garda Harrison, I should say.
23 Firstly, I just want to confirm with you the situation.
24 If we go to page 1253, this is the form provided for in
25 the Children First Protection Guidelines that is to be
26 filled out in respect of all Garda/HSE liaisons?

15:32

27 A. Yes.

28 531 Q. And are you aware when this was dropped? Do you know
29 when this was dropped by the HSE in Donegal?

1 A. Sorry, no. We do complete those forms, we meet our
2 sergeants normally every three or four months, complete
3 them in batches. They would be completed in cases that
4 are open and active and are actively being worked on by
5 the Social Work Department. In the event of a case 15:33
6 that's being dealt with on duty and if there's going to
7 be an intervention between ourselves and the guards, we
8 normally complete a strategy meeting record and that is
9 the record that we would keep.

10 532 Q. So you do complete these forms as well? 15:33
11 A. Yes, we do, yes.

12 533 Q. But there is no such form in this case?
13 A. No, because there was a strategy meeting held.

14 534 Q. But this form expects that there will be a strategy
15 meeting held. If I can go to page 1254, it's headed 15:33
16 "strategy Discussion", so this form anticipates a
17 strategy meeting?

18 A. Yes, I appreciate your view, but we don't use that in
19 Donegal, that form.

20 535 Q. Even though it's provided for in the Children First 15:34
21 Guidelines?
22 A. Which is a guideline.

23 536 Q. It's a guideline?
24 A. Yeah.

25 537 Q. You see, everyone here has told us that things had to 15:34
26 be done because they are in Children First.
27 A. Yes.

28 538 Q. And the first thing we notice that hasn't been done by
29 Tusla, the very first thing that should be filled out

1 by the Gardaí and the HSE once the thing comes up, is
2 this, but you say it's only a guideline when it
3 applies -- complies to actions from you, is that
4 correct?

5 A. That's correct.

15:34

6 539 Q. So they're discretionary?

7 A. No, we use them when the cases are open and active for
8 a protracted period of time. If a case is being dealt
9 with on duty and it's being dealt with through the
10 process of a strategy meeting, that is the record that
11 is kept. In the circumstances of Mr. Harrison and
12 Ms. Simms, that case was then closed. If that case had
13 have remained opened and had been allocated to a social
14 worker, there would have been ongoing liaisons with the
15 Gardaí and there would have been forms and document
16 that it's completed like that.

15:34

15:34

17 540 Q. Can you explain to me what is deemed to be a protracted
18 period of time?

19 A. If it's allocated to a social worker following duty.
20 So, on the completion of our assessment, our initial
21 assessment, should we require a further assessment,
22 then it would be allocated to a social worker for an
23 intervention.

15:35

24 541 Q. I see. But that is not what the Children First
25 Guidelines say, isn't that correct? This is supposed
26 to be used for all liaisons between Gardaí and the HSE?

15:35

27 A. I appreciate that is a recommendation, yes.

28 542 Q. And when a case has been live for four-and-a-half
29 months, is that a protracted period?

1 A. Well, it's a protracted period for a case that's on
2 duty, yes.

3 543 Q. So if these are filled out in batches, can I suggest to
4 you that the time for this case to be filled out into a
5 batch would have arisen? 15:36

6 A. If it had been allocated to a social worker.

7 544 Q. So this case was -- you see, I am a little lost here.
8 I hadn't been given a distinction between duty social
9 workers and social workers --

10 A. Okay. 15:36

11 545 Q. -- when I asked Ms. McTeague in relation to it, and
12 perhaps I just didn't ask the right questions,
13 undoubtedly that is the case. Can you explain to me
14 the difference between that?

15 A. Yes. So when a referral comes into the social work 15:36
16 Department, an initial assessment is completed.

17 546 Q. Mm-hmm.

18 A. Following that initial assessment, a decision is made
19 as to whether to look for a further assessment. If it
20 goes for further assessment, it is then allocated to a 15:36
21 child protection social worker, not a duty social
22 worker.

23 547 Q. I understand. Now, can I take you to how this referral
24 began, which is a letter which was sent to you -- to
25 Mr. Hone, and it's at page 110. It's a letter 15:37
26 addressed to Mr. Hone, and if we stop there.

27

28 "Dear Sir,

29

1 Re: Notification of suspected child abuse, emotional."

2 A. Mm-hmm.

3 548 Q. Attached to that then was the form --

4 A. Mm-hmm.

5 549 Q. -- referred to as the "Standard Notification Form", and 15:37

6 that's at page 111. "Notification of suspected child

7 abuse."

8 Isn't that correct?

9 A. That's correct, yes.

10 550 Q. Now, Ms. McTeague is very clear in relation to that, 15:37

11 there is no child abuse in this case. She was

12 satisfied, at the time she inputted it on the 16th

13 October into the system, that it was a welfare case, no

14 child protection issues?

15 A. Based on the information we had at that time, yes. 15:38

16 551 Q. Yes. And it's not just a matter of filling out a form

17 on the part of the Gardaí, as was suggested to

18 Ms. McTeague, but, in fact, somebody had gone to the

19 trouble in the document, at page 110, to type out

20 "notification of suspected child abuse, emotional". So 15:38

21 this isn't a situation whereby the Gardaí were confused

22 as to what box they were supposed to tick in relation

23 to it. The reason I ask you this is, Ms. McTeague

24 tells us that Gardaí don't use standard notification

25 forms and that's why "emotional abuse" was ticked on 15:38

26 the form at page 111.

27 A. The Gardaí use their own standard reporting form, which

28 is the form we see.

29 552 Q. No, it's not the only -- there's two different --

1 there's the standard reporting form?

2 A. Yes.

3 553 Q. And then there is a reporting form in respect of child
4 abuse?

5 A. Yes, that's correct. 15:39

6 554 Q. Yes.

7 A. But the Gardaí only use their own document.

8 555 Q. But anybody can use the standard reporting form, isn't
9 that correct?

10 A. That's correct, yes. 15:39

11 556 Q. And that includes the Gardaí?

12 A. Yes, that's correct.

13 557 Q. And then there is a special Garda form in respect of
14 child abuse, isn't that correct?

15 A. Sorry, can you say that again? 15:39

16 558 Q. There is a special Garda form in respect of child
17 abuse?

18 A. The form that you have just shown us, yes.

19 559 Q. Yes. But this isn't a case whereby anybody in the
20 Garda Síochána thought they were simply ticking a box; 15:39
21 they actually, on the covering letter, have written
22 "notification of suspected child abuse".

23 A. "Suspected" --

24 560 Q. Yes.

25 A. -- is the key -- 15:39

26 561 Q. "Suspected" is there, obviously it's suspected?

27 A. Yeah.

28 562 Q. But the point is that they were reporting child abuse,
29 not simply ticking a box on a form?

1 A. That's correct.

2 563 Q. Now, you were away and you were on holidays certainly
3 on the 9th October. You came back before the 16th
4 October, is that correct?

5 A. Yes, the following week. 15:40

6 564 Q. Yeah. And your first conversation was on the 16th
7 October when the matter was entered via Ms. McTeague or
8 before she entered the matter into the system?

9 A. I can't recall, to be perfectly honest with you,
10 whether it was on the 16th or whether it was on the 15:40
11 15th. I do recall having a number of conversations
12 with Ms. McTeague that week in respect to a number of
13 referrals that had come into the system.

14 565 Q. Yes. And do you recall the conversation in relation to
15 this referral? 15:40

16 A. Yes.

17 566 Q. And were you aware that Mr. Hone had refused to
18 input the -- had indicated that Tusla were going to do
19 nothing further in respect of the matter?

20 A. I was aware that the letter was sent. I would have 15:40
21 seen sight of the letter, and that letter would not
22 have been an isolated letter sent to the Simms. It was
23 not uncommon for us to send those letters to the Gardaí
24 at that particular time.

25 567 Q. Because Mr. Hone was entirely right, wasn't it? The 15:41
26 referral, in fact, had nothing to do with emotional
27 abuse?

28 A. I think there was an absence of information.

29 568 Q. But even when you got the information, the notification

1 of suspected child abuse simply wasn't appropriate?
2 A. No. I think when Ms. McTeague had conversations with
3 Sergeant McGowan, there was information shared that
4 would have been of concern for us that would have
5 warranted -- 15:41

6 569 Q. In relation to child welfare?
7 A. Yes.

8 570 Q. But not in relation to suspected child abuse?
9 A. It is our job to assess whether it is suspected child
10 abuse or whether it is child welfare, and that is our 15:41
11 role.

12 571 Q. Are you saying that the Garda Síochána wouldn't know
13 the difference between child welfare and child abuse?
14 A. I certainly am not saying that. Absolutely,
15 categorically not. What I am saying is that they have 15:41
16 a document, a standard document that they use and that
17 is the document that they sent to our department and
18 that is the categories in which they use for the
19 purposes of that.

20 572 Q. Well, I have to put it to you, and you seem to think 15:42
21 that it is acceptable, that it is absurd that the
22 Gardaí, in respect of referring things in respect of
23 child welfare, feel obliged to tick a box choosing
24 between physical abuse, sexual abuse and emotional
25 abuse, that is absurd, that the Gardaí would be sending 15:42
26 out such documents, wouldn't you agree?

27 A. No, I think that is the document that they have and
28 that is the document that they use and I beg to differ
29 with you, because if you look at the definition of

1 "emotional abuse" and under the definition of
2 "emotional abuse" there is a pertinent point to
3 domestic -- children here who are subjected to domestic
4 violence.

5 573 Q. The person who made the call in relation to this -- 15:42
6 A. I'm sorry?

7 574 Q. Are you now telling me you are disagreeing with that?
8 A. I'm sorry?

9 575 Q. Are you now telling us that you are disagreeing with
10 Ms. McTeague's assessment? 15:43
11 A. No, no.

12 576 Q. Ms. McTeague was very clear on that. She very clearly
13 said that this did not come within the remit of
14 emotional abuse, that would have been a Category 1?
15 A. Mm-hmm. 15:43

16 577 Q. This was a Category 2?
17 A. Yes.

18 578 Q. And you accept her assessment in relation to it? I
19 take it when she reached that assessment, she discussed
20 it with you? 15:43
21 A. Yes, that's correct.

22 579 Q. So you, together, agreed that this was not a child
23 protection matter; it was a child welfare matter?
24 A. Yes, that's correct.

25 580 Q. And it was not a matter of suspected child abuse, isn't 15:43
26 that correct?
27 A. Well, suspected child abuse is a matter for the Gardaí.
28 That is what they are suspecting, they are suspecting
29 that this is emotional abuse. They refer it to our

1 department. It is our duty and obligation to assess
2 that and form an opinion on the basis of our own
3 assessment.

4 581 Q. And they're also supposed to form an opinion as well,
5 aren't they, in terms of criminal -- 15:43

6 A. In terms of crime, yes.

7 582 Q. Yes. But you were satisfied, Mr. Hone was satisfied,
8 Ms. McTeague was satisfied, that in fact there was
9 nothing in that referral to support a categorisation of
10 suspected child abuse? 15:44

11 A. Based on the information that we had at that particular
12 time.

13 583 Q. And when you got more information, you're still
14 satisfied?

15 A. That it was child welfare. 15:44

16 584 Q. It was child welfare.

17 A. Based on the information that we had at that time.

18 585 Q. Yes. At all times, and Ms. McTeague was clear in
19 relation to that, you're entirely dependent on
20 information that you get from sources, isn't that 15:44
21 correct?

22 A. That's correct.

23 586 Q. And that, after that, you do have an opportunity if you
24 engage in interviews with parents, other professionals,
25 to gather extra information, but in terms of this stage 15:44
26 of the situation, you're entirely dependent on the
27 information that you receive from your external source,
28 be it the Gardaí, a teacher, a doctor?

29 A. Absolutely.

1 587 Q. An anonymous letter. It's always, you're entirely
2 dependent and constrained by that information?

3 A. That's correct.

4 588 Q. Now, Ms. McTeague is also clear that if it's a child
5 protection matter, it, shall we say, escalated in terms 15:45
6 of the timeframe for your response, would that be
7 correct?

8 A. That's correct.

9 589 Q. For the very obvious reasons, because there is a risk
10 of an immediate threat to the child? 15:45

11 A. That's correct.

12 590 Q. And you have limited resources, you can't answer every
13 single query on the day it comes in, you can't
14 investigate every query on the day it comes in; you
15 have to triage them? 15:45

16 A. Prioritise them, yes.

17 591 Q. And engage in a triage to make sure that you are
18 treating them or engaging in the cases that require
19 first involvement?

20 A. That's correct. 15:45

21 592 Q. Do you recall Sergeant McGowan referring to, at the
22 meeting -- sorry, do you recall it being mentioned to
23 you prior to the meeting that Sergeant McGowan had
24 mentioned there being physical contact between the
25 parents? 15:46

26 A. I don't recall that, I don't recall that.

27 593 Q. At the meeting then on the 21st October?

28 A. Yes.

29 594 Q. You got more detail from Sergeant McGowan at that

1 stage?

2 A. At the strategy meeting.

3 595 Q. Yes.

4 A. I recall the information being shared that there was a
5 row in the family home, that Mr. Harrison was under the 15:46
6 influence of alcohol, that Ms. Simms had tried to leave
7 and that he was preventing her from leaving and that
8 the children had witnessed this. That is my memory of
9 that meeting.

10 596 Q. Okay. That took place on the 21st October, and at that 15:47
11 stage Sergeant McGowan gave you the impression -- the
12 impression of a couple of things, I understand. One of
13 them, you were led to believe that Ms. Simms and Garda
14 Harrison were no longer in a relationship, is that your
15 understanding? 15:47

16 A. That was my understanding. Now, whether Sergeant
17 McGowan was aware that they were back in a relationship
18 or not, I don't know, but I certainly was of the view
19 that they were no longer in a relationship.

20 597 Q. And did you understand that Ms. Simms was in hospital 15:47
21 or had recently been in hospital?

22 A. I can't recall either or. But certainly she was, she
23 was recovering from some form of an illness.

24 598 Q. Right. Now, it's evidence that will be dealt with in
25 fact by a witness tomorrow, but certainly on the 11th 15:48
26 October Sergeant McGowan had already informed
27 Superintendent McGovern that Garda Harrison and Marisa
28 Simms were possibly back in a relationship together,
29 she didn't advise you of that?

1 A. Certainly that discussion didn't take place.

2 599 Q. And Marisa Simms was released from hospital on the 14th
3 October?

4 CHAIRMAN: Mr. Harty, was there any document to suggest
5 that the Gardaí knew that at that stage? 15:48

6 MR. HARTY: Yes.

7 CHAIRMAN: And was there some reference to some thing
8 that you would like to --

9 MR. HARTY: Yes. Superintendent McGovern in his
10 statement of evidence and in his notes records that on 15:48
11 the 11th October 2013 Sergeant McGowan contacted him to
12 say that Keith Harrison was possibly coupled back
13 together and a withdrawal of complaint.

14 CHAIRMAN: Possibly coupled back together?

15 MR. HARTY: Yes, and withdrawal of complaint. 15:49

16 CHAIRMAN: So they were possibly back together?

17 MR. HARTY: Yes. This is 11th October.

18 CHAIRMAN: Okay.

19 MR. HARTY: I only received these typed notes this
20 morning, sir, so that's -- 15:49

21 CHAIRMAN: No, no. And have you got a page number for
22 that?

23 MR. HARTY: Page 2462.

24 CHAIRMAN: So Sergeant McGowan says to -- was it to
25 Chief Superintendent Sheridan? 15:49

26 MR. HARTY: No, McGovern. Superintendent McGovern.

27 CHAIRMAN: Okay.

28 600 Q. MR. HARTY: In any event, you weren't told that
29 information?

1 A. That discussion didn't take place, no.

2 601 Q. I do take it that in relation to the dynamic of any
3 relationship for child welfare and child protection,
4 but in respect of both, obviously relationship status
5 between parties is often central in relation to that, 15:49
6 isn't that correct?

7 A. Sorry, it's often?

8 602 Q. Central?

9 A. Yes.

10 603 Q. The relationship between parents -- 15:50

11 A. Yes.

12 604 Q. -- or the people in locus parentis. That it can be a
13 positive or a negative if the partnership is
14 together --

15 A. Yes. 15:50

16 605 Q. -- and it is a matter which could escalate or reduce
17 the urgency in respect of a matter. For example, if
18 there's one parent who is stable and one person who is
19 unstable, if the stable parent is present in the house
20 that's obviously a matter which would allow you to 15:50
21 deescalate your investigations, but if the stable
22 parent is missing, for example, from the home at the
23 time, you would be obliged to escalate it quicker,
24 isn't that correct?

25 A. Yes. So long as the stable person was a protective 15:50
26 parent.

27 606 Q. Yes, by stable I meant protective. So the protective
28 person is present. Similarly, if the disruptive parent
29 is present in the house or otherwise that will impact

1 on whether or not you move quickly or slowly in respect
2 of a child welfare issue?

3 A. Yes, that's correct.

4 607 Q. Now, from reading your statement, between the 21st
5 October, through January you had no further dealings
6 with this case, isn't that correct? 15:51

7 A. Other than brief conversations that I would have with
8 Ms. McTeague as to whether it was ready to move onto
9 the next stage. Very brief conversation.

10 CHAIRMAN: I'm sorry to interrupt you, Mr. Harty, but 15:51
11 am I correct in thinking that -- I wasn't sure
12 Ms. Simms was still in hospital on the 14th October, I
13 thought it was four days from the 8th.

14 MR. HARTY: I thought it was four days.

15 CHAIRMAN: So that would make it the 12th, but even if 15:51
16 it was the 12th --

17 MR. HARTY: I think it was 13th, in fact. There's a
18 bit of confusion as to the 8th or 9th.

19 CHAIRMAN: Maybe. But I mean, how could they be back
20 together living in the same house in the event that she 15:51
21 is in hospital and he is not in hospital?

22 MR. HARTY: The answer to that is that it would appear
23 that the Garda Síochána were well aware of the fact
24 that Garda Harrison was in hospital visiting Ms. Simms
25 on the 11th October. That is what I am assuming in 15:52
26 relation to it, and I'm not sure how they had that
27 information.

28 CHAIRMAN: Well, it's four days, as I understood, from
29 the 8th. But, I mean, I can't understand how you could

1 make an inference that people are living together when
2 one party is in hospital. Okay, if they were living
3 together prior to the party going into hospital and
4 then there's nowhere else for the young lady to go back
5 to, that is a different matter. But I just had that 15:52
6 query in my mind. Thanks for clarifying it there.
7 MR. HARTY: My understanding in relation to the dates,
8 and there is some confusion, was that it was the 9th to
9 the 13th was the hospital, but it may have been the 8th
10 to the 12th. 15:52
11 CHAIRMAN: Yes. But either way this note, supposedly
12 sent to superintendent -- from Sergeant McGowan, that
13 the couple are possibly back together, it may mean they
14 are on friendly terms or something like that, or not on
15 hostile terms. 15:52
16 MR. HARTY: This is coming from Superintendent
17 McGovern, this wasn't evidence that I was leading in
18 relation to it.
19 CHAIRMAN: Yes. No. So the point I think that you
20 were pointing to Ms. Smith was: Look, surely you 15:53
21 should have been aware that they were living together
22 again.
23 A. That would have been important information for us to
24 know.
25 CHAIRMAN: But you didn't know that? 15:53
26 A. I didn't, no.
27 CHAIRMAN: You thought, you inferred from the depth of
28 the argument that they weren't?
29 A. Yes.

1 CHAIRMAN: Okay.

2 A. Because she made a statement of complaint to the Gardaí

3 I --

4 608 Q. MR. HARTY: You assumed?

5 A. Yes. 15:53

6 609 Q. And you weren't given any information to the contrary?

7 A. No. No.

8 610 Q. How many times -- I take it you continued to have

9 strategy meetings with your various Garda liaison

10 sergeants? 15:53

11 A. Yes.

12 611 Q. How many divisions would you or districts would you be

13 dealing with?

14 A. I would have had at that particular time two.

15 612 Q. Two? 15:53

16 A. Yeah.

17 613 Q. And they were Milford?

18 A. And the Letterkenny.

19 614 Q. Okay. Do you attend the weekly strategy meeting with

20 each sergeant? 15:54

21 A. There isn't weekly strategy meetings.

22 615 Q. Okay. What way are they done?

23 A. Strategy meetings happen when there is a specific

24 referral into the department that warrants a strategy

25 meeting. 15:54

26 616 Q. Okay. Do you attend all strategy meetings?

27 A. Unless someone is covering for me, yes.

28 617 Q. There is always a team leader or acting team leader?

29 A. Yes, yes.

1 618 Q. On average how many strategy meetings would you have a
2 week from a district?
3 A. It wouldn't happen that regularly.
4 619 Q. Okay.
5 A. Sorry, maybe once a month or sometimes you might not 15:54
6 see that particular sergeant for a few months, just
7 depending on the nature of the referrals into the
8 system.
9 620 Q. How many times did you see Brigid McGowan between
10 October and January 2013, 2014? 15:54
11 A. I didn't.
12 621 Q. You didn't see --
13 A. No.
14 622 Q. At all?
15 A. No. That's correct. 15:54
16 623 Q. Did she try contacting you at any stage?
17 A. I had no further correspondence with Sergeant McGowan
18 from the strategy meeting that I chaired with her in
19 respect of this case.
20 624 Q. So this is a time when I am told by Ms. McTeague that 15:55
21 it is a particularly busy time, with domestic violence,
22 child welfare, but in fact there was nothing at all
23 coming from Milford giving rise to a strategy meeting
24 from October to January?
25 A. We may have just been dealing with Letterkenny at that 15:55
26 particular time. I can't recall. But I certainly did
27 not have any further strategy meetings with Sergeant
28 McGowan from the 21st October until after this case was
29 closed.

1 625 Q. Can you tell me when the next one was?
2 A. No, I can't. I'm sorry.

3 626 Q. Did you direct Ms. McTeague to contact Sergeant McGowan
4 at any stage?
5 A. No. 15:56

6 627 Q. You see, there's a note on your file which on any
7 reading, and I'm not saying it was directing anybody to
8 do anything, but on any reading you were noting that
9 you were to wait for Sergeant McGowan to contact you to
10 say when Ms. Simms would be ready to deal with the 15:56
11 Social Work Department, isn't that correct?
12 A. We were awaiting further feedback from the Gardaí in
13 relation to the current health status of Ms. Simms.

14 628 Q. And there was no further feedback, isn't that correct?
15 A. To my knowledge I had no correspondence with 15:56
16 Sergeant McGowan. The only knowledge I had would have
17 been contact that Donna McTeague had in January, in
18 February.

19 629 Q. That is at least three months after your strategy
20 meeting? 15:57
21 A. Yes, that's correct.

22 630 Q. Surely at some stage Tusla should of its own bat have
23 said we just need to get on with this?
24 A. We would have been dealing with priorities, priority
25 cases, and as I stated earlier Ms. McTeague was the 15:57
26 only duty social worker on the team and she would have
27 been very busy in dealing with crisis and child
28 protection matters on a weekly basis.

29 631 Q. You see, what I don't understand is that if there are

1 child protection matters going on, on a weekly basis
2 but there is no strategy meeting between October and
3 February, in fact March it would appear, of 2014, so
4 for five months -- child protection matters are matters
5 that are escalated urgently from the point of view of a 15:57
6 duty social worker, is that correct?

7 A. That's correct.

8 632 Q. And once the duty social worker has done her job in
9 respect of them they will then get passed on to a
10 social worker, is that correct? 15:58

11 A. They may have other roles to follow through with. For
12 example, attend court where there's emergency care
13 order applications, prepare reports for court, attend
14 and give evidence in court; if those cases go on in the
15 interim care order proceedings that duty social worker 15:58
16 may still have to attend court and give evidence in
17 court; if those cases go beyond duty to child
18 protection case conferences the duty social worker
19 would have to attend and give their assessment that
20 they took place on duty at those conferences as well. 15:58

21 633 Q. Would strategy meetings continue during the lifespan of
22 such a case?

23 A. It would depend on where the case goes. So if those
24 children are received into care then we wouldn't have
25 strategy meetings, no. 15:58

26 634 Q. All right. If the children are not received into care?

27 A. We wouldn't, we would have child protection case
28 conferences and we would have core group meetings.

29 635 Q. And the Gardaí would be involved in those?

1 A. Some of them, not all of them.

2 636 Q. So I'm slightly confused as to how Ms. McTeague is
3 immensely busy with child protection matters but there
4 was no reason for Sergeant McGowan to be at a meeting
5 with you between October and March. 15:59

6 A. That's my evidence, Judge. I didn't have a meeting
7 with Sergeant McGowan between that period of time.

8 637 Q. Now, in relation to the meeting on the 21st Sergeant
9 McGowan says that she mentioned the threats to bury and
10 burn? 15:59

11 A. I'm aware that that's Ms. McGowan's evidence, yes.

12 638 Q. Is that your recollection?

13 A. I don't recall those words being used.

14 639 Q. Am I correct in saying that had those words been used
15 it would have been something that you would have taken 16:00
16 note of?

17 A. Certainly, yes, yes, I believe I would have did that,
18 yes.

19 640 Q. Because if there was any suggestion that those threats
20 were serious or seriously believed or seriously made 16:00
21 that obviously would escalate in terms of the urgency
22 of the matter, isn't that correct?

23 A. Well, we certainly would have wanted to have completed
24 a risk assessment in respect to Keith Harrison, we
25 certainly would have wanted to assess whether there was 16:00
26 the potential of those threats being carried out. Had
27 we have seen sight of the full statement of complaint
28 from Marisa Simms then that would have given us very
29 serious concerns in respect of making threats of burn

1 or bury and whether he had the capacity to carry out
2 those threats.

3 641 Q. Would you be surprised to know that nobody ever
4 questioned, and I'm not blaming Tusla in relation to
5 that, you didn't have the thing, but nobody ever 16:01
6 questioned Garda Keith Harrison in relation to those
7 threats?

8 A. I'm aware of that, yes.

9 642 Q. But had Tusla been aware Tusla would have investigated
10 it, I take it? 16:01

11 A. We would have taken it very seriously. We also would
12 have taken very seriously the other information that
13 was detailed in that witness statement, yes.

14 643 Q. In relation to the question of Sergeant McGowan
15 contacted somebody from Tusla and rang somebody from 16:01
16 Tusla to advise them that a statement had been
17 withdrawn by Marisa Simms, you say you had no further
18 contact with her, I just want you to confirm to me that
19 if that call was made it wasn't made to you?

20 A. That's correct. 16:01

21 644 Q. Okay. And insofar as it was relayed that there were
22 some suggestion that Ms. McTeague -- it was relayed
23 secondhand to Garda Harrison and he maintains the
24 position, that he was told that Ms. McTeague had to
25 make the home visit because she was instructed by her 16:02
26 superior to do so, can I ask you did you give such an
27 instruction?

28 A. Absolutely, categorically not.

29 645 Q. Okay. In relation to the question of the death threats

1 on Garda Harrison, were you aware of those?

2 A. No.

3 646 Q. Would they have given cause for concern to you --

4 A. Yes.

5 647 Q. -- in relation to the wellbeing of the Simms children? 16:02

6 A. Yes, we would have had concerns about the Simms

7 children residing in a home with Mr. Harrison where

8 there was an active death threat to him.

9 648 Q. Is that something that you have received referrals from

10 the Gardaí in the past in relation to people whose 16:02

11 children who are residing with people who are under the

12 shadow, shall we say, of a live death threat, an active

13 death threat is possibly a better word?

14 A. Yes, I can recall at least another few incidents, yeah.

15 649 Q. Where you have been asked to assist the Gardaí in 16:03

16 relation to the wellbeing of the children?

17 A. Yes. We would have had a joint strategy in relation to

18 making sure that there was a safe care plan in place.

19 650 Q. Okay. In relation finally, as I come to the end of

20 this, Ms. McTeague, I take it you were satisfied with 16:03

21 the work she had done in relation to this?

22 A. Yes, I was.

23 651 Q. Also can I suggest to you that Ms. McTeague is somebody

24 whose assessment and capabilities as a social worker

25 are somebody who you would value? 16:03

26 A. Absolutely, yes.

27 652 Q. And that insofar as Ms. McTeague was aware of the fact

28 that there was a statement followed by a statement of

29 withdrawal you would be satisfied that Ms. McTeague

1 would be well placed to assess whether or not there was
2 coercion involved in that or anything else?

3 A. Yes, I believe she would have been, had she had -- in
4 the context of her assessment, yes.

5 653 Q. Yes. She is somebody -- 16:04

6 A. Yes.

7 654 Q. -- who is more than adequately suspicious --

8 A. Yes.

9 655 Q. -- and inquisitive in relation to what is going on?

10 CHAIRMAN: Well, that issue hasn't been raised with the 16:04
11 social worker as to whether she did an investigation as
12 to whether the withdrawal of the statement was
13 consequent upon pressure.

14 MR. HARTY: Well, it is a matter which was raised.

15 CHAIRMAN: Nor was she tasked with investigating that, 16:04
16 nor did she in visiting the family or in having the
17 meeting in the office pay any regard to that or feel a
18 need to follow-through on that. I mean, maybe she
19 possibly would have had the possibly to do that, but
20 that investigation was never made as far as I can see. 16:05
21 I'm not saying there's anything wrong with that, but it
22 has not been raised at this Tribunal before.

23 MR. HARTY: Sorry, sir, it's as a result of the
24 questions raised by the Tribunal to Ms. McTeague,
25 following her evidence being given, where the questions 16:05
26 were raised in relation to whether or not alarm bells
27 would go off in respect of withdrawal of a statement,
28 and I think Ms. McTeague fairly said yes, they would.

29 656 Q. I take it that those alarm bells would then have to be

1 dealt with and the assessment would take that factor
2 into account, isn't that correct?

3 A. Yes, that's correct, yes.

4 657 Q. And that Ms. McTeague would be somebody who you would
5 trust and whose assessment you would value in relation 16:05
6 to any of that?

7 A. Absolutely. But it's important to be very clear that
8 we were not aware of all of the facts.

9 658 Q. I appreciate that you weren't aware of all of the facts
10 in relation to things, but in relation to this thing of 16:06
11 one fact that was, Ms. McTeague was made aware of, was
12 that there was a statement of complaint which was
13 subsequently withdrawn.

14 A. Yes.

15 659 Q. And what I am saying is that Ms. McTeague isn't a 16:06
16 person who is unduly optimistic about human nature, she
17 is capable of working out if there is a bad reason why
18 something might have happened.

19 A. She is a very competent worker, yes.

20 CHAIRMAN: It's a fair question, I suppose, Mr. Harty, 16:06
21 but there was never any inquiry to Marisa Simms as to
22 why she withdrew the statement, especially as the
23 meeting in the office records that she accepted that
24 the statement was all true.

25 MR. HARTY: I'm not asking -- 16:06

26 CHAIRMAN: -- or that she didn't want it acted on. I'm
27 not sure I ever used the phrase alarm bells as well. I
28 am just going back on that. I think I asked a number
29 of general questions in relation to could it happen in

1 domestic violence situations that statements were
2 withdrawn and could she give me any kind of a
3 percentage or quantity thereof and she said she
4 couldn't but it certainly happened. So I mean, the
5 note records her saying, yes, what's in the statement 16:07
6 is true. Now she may not have known what was in the
7 statement, I appreciate there is an issue on that, but
8 given that that is so, it's hard to imagine why a
9 social worker would need to follow-through on a
10 withdrawn statement, which is an apparently true 16:07
11 withdrawn statement. There may be a point there, I
12 don't know.

13 660 Q. MR. HARTY: The reason being, and I think it is an
14 important thing, because when there's questions of
15 domestic violence the simple fact of withdrawing or 16:07
16 saying the statement wasn't true doesn't mean that the
17 social worker must assume that the person is happily
18 withdrawing the statement without external pressure
19 being put on them, isn't that right?

20 A. Yes, they would form an opinion, yes. 16:07

21 661 Q. Yes. They would have to assess that as a matter of
22 caution?

23 A. Yes.

24 CHAIRMAN: I just don't agree with that, Mr. Harty. I
25 really don't agree with that. I mean, it has not been 16:08
26 followed up in the Tribunal as to whether Ms. McTeague
27 actually had any regard to the withdrawal of the
28 statement or felt any need to make any inquiry in
29 relation to was that in consequence of pressure from

1 Keith Harrison or anybody else. I mean, the Rules of
2 Evidence say that at the very end of a case when
3 everyone is finished the Judge is entitled to ask a
4 number of questions, but I never stopped anyone in
5 consequence of that asking any further questions that
6 are necessary. But this is just an issue that is now
7 coming up and I don't know, I don't know why. 16:08

8 662 Q. MR. HARTY: Finally, Ms. Smith, you were satisfied with
9 her assessment and analysis as to the situation and her
10 judgment in relation to the future needs and whether or 16:08
11 not this initial assessment had to be, could be
12 shutdown at that stage?

13 A. Based on the information that she had at that time,
14 yes.

15 MR. HARTY: Yes. Thank you Ms. Smith. 16:09

16 CHAIRMAN: Is there anything Mr. Barnes?

17 MR. McDERMOTT: I have no questions.

18 CHAIRMAN: Mr. Barnes?

19 MR. BARNES: I have no questions, sir.

20
21 MS. SMITH WAS CROSS-EXAMINED BY MR. DIGNAM AS FOLLOWS: 16:09

22 663 Q. MR. DIGNAM: Chairman, I have one question to ask
23 Ms. Smith. Ms. Smith, my name is Conor Dignam, I
24 appear on behalf of Garda Síochána. You were asked a
25 question by Mr. Harty and in the course of that 16:09
26 question he described essentially the use by An Garda
27 Síochána of appendix 5 to the Children First Guidelines
28 as absurd. If I can just ask you to look at that, that
29 is page 1252. And, first of all, could you confirm

1 that when you're saying that the guards in Donegal use
2 their own form, that that is the form that you are
3 referring to?

4 A. Yes.

5 664 Q. So that is appendix 5 of the Children First Guidelines 16:09
6 that the Garda use. It's not a specially designed
7 Garda form, it's not a unique form or a particularly
8 tailored form, it is an actual form that is contained
9 in the Children First Guidelines, and it's headed up,
10 you might confirm, for us: "Standard notification form 16:10
11 for use by An Garda Síochána in notifying cases to the
12 HSE."

13 A. That's absolutely correct and I apologise if I inferred
14 something other than that.

15 665 Q. Not at all. 16:10

16 A. Yes.

17 666 Q. It's more dealing with the question that was put to
18 you, rather than your answer. And in fact you went on
19 to answer the question to say that it's not absurd and
20 in doing so you referred to the definitions of 16:10
21 emotional abuse. And, if I just draw your attention to
22 page 1178 and over on to 1179, which is paragraph 2.3
23 of the Children First Guidelines, which is the
24 definition of emotional abuse. And would you confirm
25 that at paragraph 2.3.1(x) that the definition of 16:11
26 emotional abuse includes "exposure to domestic
27 violence"?

28 A. Yes, that's absolutely correct.

29 667 Q. Yes. You said that in your answer. So in those

1 circumstances I take it that you don't agree that it's
2 fair to characterise the Gardaí seeing this incident
3 based on the statement that they have from Ms. Simms as
4 a possible case of emotional abuse?

5 A. I fully concur with the Garda's assessment in this 16:11
6 matter.

7 668 Q. Yes. And in those circumstances their use of the
8 standard notification form for use by An Garda Síochána
9 in notifying cases to the HSE contained in the Children
10 First Guidelines with the emotional abuse box ticked 16:11
11 was in fact appropriate and a correct procedure for
12 them to have used?

13 A. Absolutely Judge.

14 669 Q. Yes.

15 A. Yes. 16:12

16 670 Q. And once you receive that, you can have a different
17 opinion, and you are the child protection expert, you
18 may reach a different view and a different opinion and
19 decide it's not in fact emotional abuse, it is a child
20 welfare case, or indeed if the Gardaí identify it as a 16:12
21 child welfare case you might disagree and see it as an
22 emotional abuse?

23 A. Yes.

24 MR. HARTY: Sorry, sir, I just wish to point out that
25 the Garda instructions appear to have changed from one 16:12
26 witness to the next, in that on the previous case it
27 was because there was no space in the box for welfare.
28 MR. DIGNAM: No, no.

29 CHAIRMAN: Mr. Harty, I never said alarm bells, by the

1 way. I just searched the entire transcript. Neither
2 did I ever use the word "horseplay" in relation to a
3 previous module. But things are being ascribed to me.
4 I suppose worse can be said than that. Sorry,
5 Mr. Dignam.

16:12

6 MR. DIGNAM: Not at all. Chairman, just in relation to
7 that I didn't intervene when Mr. Harty put the
8 question, and the way he put the question to this
9 witness at one stage was that An Garda Síochána were
10 confused. There was no evidence that given that An
11 Garda Síochána were confused. The reference to the
12 number of boxes to be ticked, etcetera, came on foot of
13 Ms. McTeague's evidence, and I simply pointed out to
14 her that the form which An Garda Síochána used was the
15 standard notification form and contrary to what she had
16 said in her evidence, I think she accepts that it was
17 mistaken, there is no box in the standard notification
18 form for welfare or welfare case or child welfare case.
19 So there's no question of instructions or positions
20 having changed, Chairman.

16:12

16:13

16:13

21 CHAIRMAN: All right. Look, we will see.

22 MR. DIGNAM: Yes.

23 CHAIRMAN: Mr. McGuinness, did you want to ask any
24 further questions?

25 MR. MCGUINNESS: No, sir.

16:13

27 MS. SMITH WAS THEN QUESTIONED BY THE CHAIRMAN,

28 AS FOLLOWS:

29 671 Q. CHAIRMAN: There is one matter I want to put to you and

1 this is the last thing, Ms. Smith. Are you aware that
2 an allegation was made against you that you had been
3 leaned on specifically by Sergeant McGowan to ensure
4 that a home visit took place in this instance in
5 relation to this report to you as to what had happened 16:13
6 between Marisa Simms and Keith Harrison?

7 A. Yes, I am aware of that, Judge, and I utterly refute
8 that.

9 672 Q. CHAIRMAN: What is your connection or friendship or
10 anything with Sergeant McGowan? 16:14

11 A. It's purely professional, Judge. Purely professional.

12 673 Q. CHAIRMAN: Do you ever meet her outside of work? Are
13 you a member of the same sporting club or anything like
14 that?

15 A. No. 16:14

16 674 Q. CHAIRMAN: How did you feel when that allegation was
17 made against you?

18 A. Judge, I'm -- I feel it has been an attack on my
19 professional integrity. I am very, very, very
20 distressed by it, to be honest. I am a principal 16:14
21 social worker in Donegal, I chair child protection case
22 conferences, I meet families on a regular basis and I
23 feel that this is utterly unacceptable.

24 675 Q. CHAIRMAN: All right. Well, it has now been put to you
25 and you have had a chance to say that, and that is the 16:14
26 only reason that I asked you about it.

27 A. Thank you.

28

29 CHAIRMAN: Sin é. So, Ms. Leader or Mr. McGuinness,

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where are we going now for tomorrow? Thank you very much, Ms. Smith, I am sure you want to sit down.

THE WITNESS THEN WITHDREW

16:15

CHAIRMAN: And I don't think we need a note, Ms. Kelly, unless you want to take a note.

THE HEARING THEN ADJOURNED UNTIL WEDNESDAY, 4TH OCTOBER 2017 AT 10:00AM

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