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1921, ON 17 FEBRUARY 2017

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

HELD IN DUBLIN CASTLE
ON FRIDAY, 7TH JULY 2017 - DAY 4

4

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INDEX

<u>WITNESS</u>	<u>PAGE</u>
MS. KEARA MCGLONE	5
DIRECTLY EXAMINED BY MR. MCGUINNESS	5
CROSS-EXAMINED BY MR. MCDOWELL	50
CROSS-EXAMINED BY MR. O'HIGGINS	85
RE-EXAMINED BY MR. MCGUINNESS	107
QUESTIONED BY THE CHAIRMAN	111
MS. LAURA CONNOLLY	
DIRECTLY EXAMINED BY MS. LEADER	121

1 THE HEARING RESUMED ON FRIDAY, 7TH DAY OF JULY, 2017 AS
2 FOLLOWS:

3
4 **MR. MCGUINNESS:** Sir, we are going to continue this
5 morning taking the evidence of Keara McGlone. 10:00

6
7 MS. KEARA MCGLONE CONTINUED TO BE DIRECTLY EXAMINED BY
8 MR. MCGUINNESS AS FOLLOWS:

9 1 Q. **MR. MCGUINNESS:** Ms. McGlone, yesterday when the
10 Tribunal rose I was asking you about the intake form, 10:00
11 and could I ask you to look at page 1327, which is the
12 copy of the intake form? Now, is that on the screen in
13 front of you?

14 A. It is now, yes.

15 2 Q. Yes. Now, obviously Sergeant McCabe's name is misspelt 10:00
16 at the top but he is clearly identified in the details
17 of the report as being a garda, isn't that correct?

18 A. Yes, if you just scroll up a little bit, please.

19 3 Q. Yes.

20 A. Yes. 10:01

21 4 Q. And you are looking at number 7 there, "*Details of*
22 *Report*"?

23 A. Yes.

24 5 Q. Okay. Now, just in terms of how the duty social worker
25 would take this, this is a template on the computer 10:01
26 available to the duty social worker who takes a
27 telephone referral?

28 A. That's correct, yes.

29 6 Q. And then is that saved on the computer or is it just

1 printed off for the purposes of the referrals meeting?

2 A. It generally can be either. Some social workers will
3 handwrite the intake record, some will type it and
4 print and delete it, some will save it onto a desktop.

5 7 Q. There is no starred practice then? 10:01

6 A. No, not in relation to that.

7 8 Q. Okay. Now, yesterday I was asking you was the fact
8 that the alleged perpetrator identified here was a
9 garda, would that be a criteria in relation to the
10 priority for allocation? 10:02

11 A. As I said, not necessarily. It certainly is
12 concerning. And it was a valid referral to make, and I
13 believe valid for us to accept the referral. But the
14 fact of a person's profession wouldn't necessarily be
15 criteria in itself, no. 10:02

16 9 Q. Okay. But obviously allocation of the case to a social
17 worker is something dependent upon resources and
18 presumably further investigation?

19 A. It's generally based on priority and risk. Obviously
20 young children at most serious risk get allocated 10:02
21 first.

22 10 Q. Okay. But would it not set off alarm bells of the
23 loudest type where you get a notification relating to a
24 garda, not from the point of view of making a decision
25 about allocating it, but perhaps lifting the phone to 10:02
26 see is he still a serving guard and where is he?

27 A. Not necessarily. Again, it was accepted as a referral,
28 in that way it was given a priority and it was accepted
29 into the service. It wasn't priority for allocation,

1 as I have explained yesterday, but certainly it was a
2 valid referral. And yes, profession would be taken
3 into account but there is no specific criteria. We
4 work regularly with people of all professions;
5 unfortunately child abuse permeates all forms of family 10:03
6 life and can affect people in many different
7 professions.

8 11 Q. Yes. But you are up in Drumalee Cross?
9 A. That's correct.

10 12 Q. The garda station is down in Farnham Street, isn't that 10:03
11 right?
12 A. Cavan Garda station is in Farnham Street, yes.

13 13 Q. And presumably the phone number is well-known to the
14 HSE?
15 A. Absolutely, yes. 10:03

16 14 Q. And would you not think it relevant or appropriate to
17 at least find out is this a garda still serving in
18 Cavan, because you are dealing with child protection
19 issues?
20 A. It wouldn't matter where he was serving, if he was a 10:03
21 serving guard that would be an issue in itself. It
22 wouldn't matter if he was in Cavan or a different area.
23 At this point I suppose we didn't have an address for
24 him either.

25 15 Q. But obviously it's an intake form, he is believed to 10:04
26 have been in Cavan, you were the duty team leader for
27 Cavan --
28 A. Yes.

29 16 Q. -- and would it not have been the easiest thing to do

1 on that Friday evening, or Friday afternoon to find out
2 immediately is he serving in Cavan still?

3 A. Again it wasn't a priority on that particular Friday
4 afternoon in the context of the case we were dealing
5 with at the time. This is a retrospective referral, 10:04
6 there is no identification in this case at this point
7 that a child is at serious and immediate risk currently
8 and it wouldn't have been priority. Retrospective
9 referrals generally were not priority at that time.

10 17 Q. Okay. well, if we look at the next page, 1328, there 10:04
11 doesn't appear to be anything recorded on the next page
12 at all, is that right?

13 A. Yes.

14 18 Q. Okay. On the third page, 1329, there's a section B,
15 number 12 "*Known to Social Work Department*" and the 10:05
16 question is:

17
18 "*Based on information known at this time is the*
19 *child/family known to Social Work Department?*"

20 10:05

21 And there is a box for yes and no, and no is ticked,
22 isn't that right?

23 A. Yes.

24 19 Q. And is that a no in relation to Ms. D or in relation to
25 Sergeant McCabe? 10:05

26 A. I am assuming -- again that would have been completed
27 by Briega before I signed the form, my handwriting is
28 the next section down. But there would have been no
29 previous record on the file index system of Maurice

1 McCabe as there was no previous file opened in relation
2 to him. So I can't, I suppose, speculate what Briega
3 did or didn't do. But if she did check under Maurice
4 McCabe there would have been no record on the file
5 index system of him there. 10:05

6 20 Q. Okay. Well, that just leads me to the next question:
7 Assuming she is in obviously the duty office --

8 A. That's correct, yeah.

9 21 Q. -- on the phone with the computer in front of her, can
10 she check whether there is in fact a file on Maurice 10:06
11 McCabe?

12 A. You can now. I am not sure or certain in 2013 whether
13 we had access to that file index on the desktop in the
14 duty room. I know the staff do now currently, but I am
15 not sure in 2013 whether Briega would have been able to 10:06
16 access that from her own computer or whether only admin
17 could access it at that time.

18 22 Q. Okay. Now, in terms of Ms. D, presumably therefore,
19 Ms. D's name would have been on the system?

20 A. Yes, there should be a closed record of Ms. D. 10:06

21 23 Q. Okay. And insofar as the form is a form designed for
22 children, would it have been appropriate to check
23 whether the complainant, as it were, in this case,
24 Ms. D, in respect of whom the referral has been made,
25 would it not have been appropriate to check whether 10:07
26 there was a file relating to her?

27 A. If Ms. D was a current child, if she was still a child
28 at this point, which she wasn't, I understand she was
29 21 at the time, she was also an adult, it would be

1 standard practice that if a referral came in on a child
2 currently we would check to see if that child is known.
3 In this case, I know Briege joined the service
4 approximately 2009 -- I think 2010, 2011, maybe 2009 I
5 am not sure, but in that time the practice would have 10:07
6 been if a referral was received in relation to an adult
7 of concern that an adult file would be open. So, if it
8 was previously known - I am only speculating what
9 Briege may have assumed - was that she would check
10 under the adult person of concern rather than the adult 10:07
11 victim.

12 24 Q. Okay. well, the entry underneath that, that is in your
13 handwriting?

14 A. Yes.

15 25 Q. And it reads: *"Query previously known?"* 10:07

16 A. Yes.

17 26 Q. Now, where it has been -- where the box above has been
18 ticked what caused you to put that down?

19 A. I can't recall. As I say, I don't remember even
20 completing this form, but I do acknowledge it's my 10:08
21 handwriting, I do acknowledge that I have signed it. I
22 imagine either the body of the report and what is said
23 there, that it jogged something in my memory, I am not
24 sure. Obviously something alerted me to the fact there
25 was previous involvement with Ms. D. 10:08

26 27 Q. well, did the name Maurice McCabe mean something to
27 you?

28 A. I don't remember specifically if it did or not.

29 28 Q. Okay. And was this a query written for anyone else's

1 benefit or was this a query that you were intending to
2 follow up?

3 A. It was me that intended to follow up.

4 29 Q. Okay. Now, there is a box 14 "*Primary report type*" and
5 there is a tick in one box there? 10:09

6 A. Yes.

7 30 Q. That is sexual abuse of child?

8 A. Yes.

9 31 Q. No other boxes are ticked. The next box is "*welfare*
10 *concern category number 15*", and there is nothing 10:09
11 ticked there?

12 A. No. The procedure at that time would be to take -- if
13 the referral was in relation to an abuse category then
14 we didn't also tick a welfare category. If the
15 referral was in relation to a welfare concern then a 10:09
16 specific category of the welfare types of problems that
17 are indicated there, one of those would be ticked but
18 you didn't tick both, and abuse and a welfare category,
19 it was one or the other.

20 32 Q. Okay. And this is the state of the form as it was 10:09
21 produced to the Tribunal, and those boxes were never
22 ticked in relation to any child concerns, isn't that
23 right?

24 A. No, this form was in relation to adult, and the
25 category of abuse reported by Laura on the phone was 10:09
26 sexual abuse.

27 33 Q. Okay. Heading number 16: "*Action on completion of*
28 *intake/referral.*" And neither of those two boxes are
29 ticked in that --

1 A. No.

2 34 Q. -- category?

3 A. No.

4 35 Q. And underneath that, then, there is a number of
5 headings "*Strategy Meeting*", that is not ticked. 10:10
6 "*Notified to An Garda Síochána*", that seems to be
7 ticked?

8 A. Yes.

9 36 Q. Did you tick that it?

10 A. It appears that I would have, yes. I can't recall but, 10:10
11 yeah.

12 37 Q. Okay. And does that mean that you intended to notify
13 the Guards or that you had done so?

14 A. That I intended to. As you can see there is no box to
15 say intended to, so "*notified*" is what the box we would 10:10
16 tick and it's clarified that "*Duty to Garda notify*"
17 which would show that it was intended -- something was
18 intended to happen.

19 38 Q. Okay. And that phrase is there in the space for
20 comments or notes? 10:10

21 A. Yes.

22 39 Q. "*Duty to Garda notify and await allocation, MTP.*"

23 A. Yes.

24 40 Q. And that's your handwriting?

25 A. Yes. 10:10

26 41 Q. Okay. And just in terms of what that means, does that
27 mean it's a recognition of your legal duty or your duty
28 under the guidelines or is it designating the duties
29 social worker to notify?

1 A. At that point, at the point of signing this, which
2 would have been completed on the Friday, is "Duty to
3 Garda notify", which is a task for the duty worker.
4 "And await allocation," as in, there was nobody to
5 allocate it to at that point. And "MTP" relates to the 10:11
6 measuring the pressure database in which this would be
7 recorded as awaiting allocation to a social worker.

8 42 Q. Okay. was this completed by you then on the 9/8?
9 A. I believe so.

10 43 Q. Okay. 10:11
11 A. I can't recall.

12 44 Q. The next page then, 1330. I think box 18 shows
13 Ms. Tinnelly's signature and then your signature, both
14 on the 9/8?

15 A. Yes. 10:11

16 45 Q. Now, what decision was there left to take at the
17 referrals meeting then on Monday, if you had decided,
18 you know, duty to Garda notify, await allocation and
19 you are putting it on the MTP?

20 A. I suppose the outstanding task was at that point I 10:12
21 hadn't reviewed Ms. D's file, and the purpose of
22 bringing it to the referrals meeting was to record all
23 the referrals that week that had been received, and to
24 log it in that referrals book that we spoke about
25 yesterday. And I suppose, it's shared with the other 10:12
26 people who were at the meeting, if they have any
27 further information to add in relation to the referral.
28 That was the purpose of bringing it to the meeting on
29 the Monday.

1 46 Q. Okay.

2 A. I explained yesterday also sometimes the action had
3 already been agreed within a 24-hour period and there
4 would be no further action agreed at the referral
5 meetings. Sometimes further information would arise at 10:12
6 that meeting from other workers who were there and that
7 may change what action needs to be taken.

8 47 Q. Okay. well, did you in fact review the files before
9 the referral meeting on the Monday?

10 A. I can't recall if it was before or directly after, but 10:12
11 it was definitely on the Monday -- I would only ever
12 have done it on that day.

13 48 Q. Okay. well, can I ask you to look at the retrospective
14 disclosure of abuse format page 964 that Ms. Brophy had
15 completed and sent in? 10:13

16 **CHAIRMAN:** Mr. McGuinness, just for the sake of my
17 note, if you wouldn't mind. In terms of the details of
18 the report, this is the one that involves the couch and
19 everyone with their clothes on, isn't that correct?

20 **MR. MCGUINNESS:** Yes. This contains none of the 10:13
21 incorrect allegation, obviously in the sense it doesn't
22 contain the error relating to Ms. Y.

23 **CHAIRMAN:** Yes. So, the point you are putting across
24 is that this is the conversation over the phone where
25 Laura Brophy gives the correct and accurate description 10:13
26 that she had got from Ms. D and conveys it to
27 Ms. McGlone?

28 **MR. MCGUINNESS:** Yes.

29 **MR. MCDOWELL:** Not to Ms. McGlone.

1 **CHAIRMAN:** well, conveys it in what way then? Sorry,
2 I am just --

3 **MR. MCDOWELL:** It's Ms. Tinnelly.

4 **MR. MCGUINNESS:** Yeah, it's Ms. Tinnelly who takes the
5 call. 10:14

6 **CHAIRMAN:** Yes, it's Ms. Tinnelly who takes the call.
7 And then Ms. McGlone and Briega Tinnelly both sign off
8 on it. But the point is: whoever did it this is the
9 accurate description of the original allegation made?

10 **MR. MCGUINNESS:** Yes. 10:14

11 **CHAIRMAN:** The one made by Ms. D again when she went
12 back in August 2013 to Laura Brophy?

13 **MR. MCGUINNESS:** Yes.

14 **CHAIRMAN:** Okay.

15 49 Q. **MR. MCGUINNESS:** And I think you concluded that 10:14
16 yourself having examined Ms. D's file?

17 A. Yes, that's correct.

18 50 Q. So, what I want to ask you --

19 **CHAIRMAN:** And I am sorry, Mr. McGuinness, it's my
20 fault, it's not your fault, but did the witness 10:14
21 actually take out Ms. D's file and look at it?

22 **MR. MCGUINNESS:** She said she reviewed it, yes.

23 **CHAIRMAN:** Okay.

24 **MR. MCGUINNESS:** And I am just coming to that.

25 **CHAIRMAN:** Okay. 10:14

26 51 Q. You took out Ms. D's file?

27 A. Yes.

28 52 Q. And you are not sure whether you did it before the
29 referrals meeting?

1 A. I am not sure. Referrals meetings usually occur at
2 half nine, 9:30, so I generally was in the office
3 around half eight. I may have done it beforehand, I
4 may have done it directly after. It would have been
5 made available before the referrals meetings. But I 10:15
6 can't recall at what time I looked at it.

7 53 Q. Okay. Now, can I ask you to look at that report on
8 964, which is Ms. Brophy's original report --

9 A. Yes.

10 54 Q. -- in writing that was received? 10:15

11 A. Yes.

12 55 Q. Now, I think you can see there is a date stamp at the
13 top, and Ms. Ward, the previous witness, has identified
14 that she had received this back from Cavan and it had
15 the date-stamp on the bottom from Cavan of the 12th 10:15
16 August?

17 A. Yes. I can't make it out, but I understand her
18 evidence yesterday. I can't really make out the date
19 stamp, but it does appear like a number 12, yes.

20 56 Q. Did you receive that on the Monday? 10:15

21 A. I have never seen this report until the disclosure
22 process. I hadn't seen it on the 12th.

23 57 Q. Okay. So when it comes to you writing to
24 Superintendent Cunningham --

25 A. Yes. 10:16

26 58 Q. -- on the 15th --

27 A. Yes.

28 59 Q. -- you hadn't seen that report?

29 A. No.

1 60 Q. You hadn't, therefore, considered the account or the
2 description of abuse contained in the form?

3 A. No. My letter to Noel Cunningham, I believe I drafted
4 that also on the 12th, I would have handwritten it and
5 left it for admin to send out. And that is consistent 10:16
6 with being pp-ed by the administrator, who sent it on
7 my behalf. I believe that at that point it was based
8 solely on the information that Laura Brophy had given
9 verbally to Briega Tinnelly, and to me that was
10 consistent with the allegation that was presented by 10:16
11 Ms. D back in 2006/2007.

12 61 Q. All right. But you must have understood from the
13 details that Ms. Tinnelly had recorded that the matter
14 was reported to the DPP and no prosecution had ensued?

15 A. Yes. 10:16

16 62 Q. You had, in fact, reviewed Ms. D's file yourself?

17 A. Yes.

18 63 Q. You concluded it was in fact the same matter --

19 A. Yes.

20 64 Q. -- which was being referred to you. And ought you not 10:17
21 to have concluded there was no need to refer it to the
22 Gardaí?

23 A. At that point I didn't refer it to the Gardaí, I asked
24 for a meeting in relation to Superintendent
25 Cunningham's previous investigations. So I was 10:17
26 acknowledging the matter had already been investigated
27 and I was asking for a meeting, I suppose, to discuss
28 issues in relation to Mr. McCabe, in relation to his
29 responses to the allegation, prior to me arranging to

1 meet with him or one of my staff.

2 65 Q. Well, just looking at the letter you did write at page
3 1331, the letter of the 15th -- dated the 15th of
4 August 2013. It's addressed to "Noel Cunningham,
5 Superintendent", it's headed "Private and
6 Confidentiality". Perhaps you would read that into the
7 record of the Tribunal.

10:17

8 A. Yes. It's, I have:

9

10 *"In relation to a criminal investigation into*
11 *allegations of child sexual abuse made by Ms. D against*
12 *MMCC, an adult, in 2007.*

10:18

13

14 *Dear Superintendent Cunningham*
15 *Health Service Executive Child and Family Services have*
16 *received a recent referral from Rian (a therapeutic*
17 *counselling service for adult survivors of childhood*
18 *abuse). The referral states that Ms. D, now aged 21,*
19 *has discussed during counselling sessions that she was*
20 *sexually abused during her childhood by an adult male,*
21 *MMCC.*

10:18

10:18

22

23 *I note from the social work file that you conducted a*
24 *criminal investigation into these allegations in 2007.*
25 *However, it appears that the alleged perpetrator was*
26 *not met with by the Health Service Executive at that*
27 *time.*

10:18

28

29 *I would like to meet with you to discuss the case prior*

1 to making any contact with the alleged perpetrator. I
2 would appreciate if you could contact me to arrange a
3 date to meet in Monaghan that is suitable for you. I
4 can be contacted on --"

10:18

5
6 I provide my mobile number and the office number in
7 Cavan.

8
9 *"Many thanks for your assistance in this matter.
10 Yours sincerely."*

10:19

11 66 Q. Now, it's headed "*Private and Confidentiality*". You
12 had presumably dealt with the Gardaí before and
13 furnished the Garda Síochána with reports in relation
14 to other matters?

15 A. Yes.

10:19

16 67 Q. And did you have any knowledge of how a letter marked
17 "*Private and confidentiality*" would be dealt with by
18 the Gardaí?

19 A. I am assuming it was treated privately and
20 confidentially. It may be opened by the person
21 directly or somebody working on their behalf, an
22 administrator. I was conscious at that point to just
23 refer to Mr. McCabe as MMCC, that I wasn't clearly
24 identifying him while he was in a station.

10:19

25 68 Q. Presumably you knew that An Garda Síochána kept a
26 correspondence register?

10:19

27 A. I assume so.

28 69 Q. Yes. But did you expect it would be given and only
29 given and only opened by Superintendent Cunningham?

1 A. Him or somebody working on his behalf in his office.

2 70 Q. Okay. Now, you do refer to Sergeant McCabe simply as
3 MMCC?

4 A. Yes.

5 71 Q. And was that because you were conscious of the fact 10:20
6 that it might be opened by somebody else?

7 A. Yes.

8 72 Q. Right. You don't refer to him, in fact, as having been
9 a guard or being a guard at all in the letter?

10 A. No, I don't. 10:20

11 73 Q. Is there any reason for that?

12 A. No. I suppose it is, in relation to any case I would
13 always try and maintain client confidentiality where
14 possible. In this case I identified Ms. D, I didn't
15 identify the alleged perpetrator. At that point he 10:20
16 hadn't been afforded the opportunity to respond, from
17 my point of view, to the allegation. I didn't want to
18 name him or to have an allegation circulating in a
19 Garda station that may identify him.

20 74 Q. All right. Now, at this stage, you think you might 10:20
21 have drafted the letter on the 12th?

22 A. I believe so. I can't recall, but I believe that, yes,
23 my only involvement would have been on the 12th.

24 75 Q. Okay. And is it your practice to keep your drafts of
25 documents? 10:21

26 A. No. I'd say I handwrote it and a handwritten letter
27 would have been given to the administrator to type.

28 76 Q. Okay. And as of the 12th, had the paper file been
29 created?

1 A. It would have only been created on the 12th after the
2 referrals meeting.

3 77 Q. It seems to be dated the 15th, but perhaps I will come
4 back to that in a minute.

5 A. The letter may -- depending on the workload of admin at 10:21
6 the time, she had to process all the referrals for that
7 day, she had to open any other files that needed
8 opening, it may not have been typed until the 15th.

9 78 Q. Okay. But certainly, as far as you were concerned,
10 having signed off on the intake form, having brought it 10:21
11 to the referrals meeting --

12 A. Yes.

13 79 Q. -- it was decided that it would be taken in and await
14 allocation?

15 A. Yes. 10:21

16 80 Q. Okay. But you have said in your statement at page 7 in
17 respect of what you noted in Section 12 of the form,
18 you imagine you recognised the name, something jogged
19 your memory that we had previously -- previous
20 involvement. 10:22

21 A. Yes.

22 81 Q. And I presume you are referring to Maurice McCabe as
23 the name that jogged your memory?

24 A. I can't be certain if it was Ms. D or Mr. McCabe, I
25 can't be certain. 10:22

26 82 Q. Okay. The letter, in any event, says:
27
28 *"Dear Superintendent Cunningham*
29 *Health Service Executive Child and Family Services have*

1 *received a recent referral from Rian, a therapeutic*
2 *counselling service for adult survivors of childhood*
3 *abuse."*

4
5 Are you referring to the verbal referral? 10:22

6 A. Yes.

7 83 Q. You are not referring then to the written referral
8 which appears to have arrived on the 12th?

9 A. No, as I stated, I have never seen that letter until --
10 or the report until the disclosure process. 10:22

11 84 Q. Right. And where would that report from Laura Brophy
12 have resided between the 12th -- or from 12th onwards?

13 A. I am assuming it went on to the file. If the post
14 wouldn't have arrived at the time of referrals meeting
15 the post wouldn't have been opened until after that. I 10:23
16 am assuming, I can only speculate, I can't give any
17 certainties in this regard, that the post, it came in
18 and it was placed onto the file assuming it was a
19 duplicate of the verbal referral, the intake had
20 already been created at that point. I don't believe it 10:23
21 went back through the duty system, as in, to create a
22 new intake arising from it. If that was the case a new
23 intake would have been created based on the different
24 information. I believe it just got placed onto the
25 file and I believe that I hand wrote the letter prior 10:23
26 to the file even being opened at that point on that
27 day.

28 85 Q. Okay. Well, the third paragraph of the letter is of
29 some significance, because you say:

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"I note from the social work file that you conducted a criminal investigation into these allegations in 2007. However, it appears that the alleged perpetrator was not met with by the Health Service Executive at that time."

10:23

A. Yes, that refers to Ms. D's file.

86 Q. Yes. Now that first sentence, I think, does make it reasonably clear that you could only have got Superintendent Cunningham's name from the Ms. D file?

10:24

A. That's correct.

87 Q. And you would have seen some correspondence relating to or from Superintendent Cunningham, including Ms. D's statement?

A. No. My understanding, Ms. D's statement wasn't on the social work file at that point. I know now, from the disclosure process, it was on the CSA file which was held in a different office as part of a different team, the CSA team. It wasn't held at that point, to my knowledge, on the social work file. All I seen on that file was Noel Cunningham's name in contact sheets or in correspondence with Rhona Murphy.

10:24

10:24

88 Q. Yes. And did you know the outcome of the investigation?

A. I knew that the DPP had recommended no prosecution but it wasn't clear at that point what investigative steps had been taken or whether -- I wasn't sure was it the exact same allegation at that point or not. It appeared very similar, but I wasn't sure. I wanted to

10:24

1 clarify further.

2 89 Q. You were able to discover and you record there:

3

4 *"However, it appears that the alleged perpetrator was*

5 *not met with by the Health Service Executive at that* 10:25

6 *time."*

7 A. Yes.

8 90 Q. Now, obviously that is not the responsibility of

9 Superintendent Cunningham in any respect?

10 A. No, absolutely not. 10:25

11 91 Q. No. And you must have discovered that from seeing

12 Rhona Murphy's minute recommending the case closure?

13 A. Yes, and her letter --

14 92 Q. And her letter --

15 A. Yes. 10:25

16 93 Q. -- of the 10th of October 2007?

17 A. I don't recall a date, but I remember seeing a letter

18 from her to her management in relation to her concerns

19 that he hadn't been met with.

20 94 Q. Yes. And had you seen Mary Tiernan's sign-off on that 10:25

21 closure record, which was in fact dated in November?

22 A. I can't remember the date but yes, I had seen the

23 closure form on the file.

24 95 Q. So you had seen Rhona Murphy's letter and Ms. Tiernan's 10:25

25 sign-off. And was this not a query that you should

26 have raised with them as to why it was that the

27 perpetrator wasn't met with by the health service?

28 A. I know at that point Ms. Tiernan was no longer in the

29 service, Ms. O'Reilly was no longer in the service,

1 Ms. Murphy was in the service and she had obviously
2 stated her view that it was an outstanding piece of
3 work, and I would have been of the same view; it was a
4 piece of work outstanding, an assessment outstanding in
5 relation to Mr. McCabe. 10:26

6 96 Q. Okay. Well, I mean, were you therefore reopening
7 Ms. D's case file as well?

8 A. No, no. The only piece that was outstanding in my view
9 was in relation to meeting with Mr. McCabe, obtaining
10 his response to the allegation, informing him of the 10:26
11 allegation in the first part from the Health Service
12 Executive point of view, and to I suppose ascertain his
13 response to that and to assess any future -- any risk,
14 if any, he may pose to any other children.

15 97 Q. Well, would it not have been appropriate before writing 10:26
16 this letter perhaps to speak with Ms. Murphy as to why
17 the case was closed and why Sergeant McCabe hadn't been
18 met with in 2007 or any year subsequent to that?

19 A. Perhaps, but I don't believe Ms. Murphy would be able
20 to answer, in that she had already expressed her 10:27
21 concern on the file that he hadn't been met. So it
22 appeared to me that it was her view also that a piece
23 of work was outstanding.

24 98 Q. Well, did the fact that she was recommending the
25 closure of the file -- 10:27

26 A. She was recommending closure in relation to Ms. D,
27 which was a therapeutic piece of work which I could see
28 from the file had been completed. The situation seemed
29 to have improved for Ms. D and it appeared that the

1 need for child protection intervention for her at that
2 point was no longer in existence. So, I suppose,
3 closing Ms. D's file had little relationship to the
4 outstanding piece of work in relation to Mr. McCabe.

5 99 Q. Yes. But you see, every answer you give seems to 10:27
6 emphasise that this is a matter for the Health Service
7 Executive rather than the Gardaí, and should your query
8 not have been directed internally as to why the Health
9 Service Executive had not met the alleged perpetrator
10 for what was now maybe six years? 10:28

11 A. I suppose all I can say is I was aware it was an
12 outstanding piece of work. In my view, an assessment
13 was outstanding. Other people at the time may have had
14 a different view. Perhaps processes were different.
15 As I say, I wasn't involved in 2006/2007 with this 10:28
16 case, perhaps in 2013 practice had changed. But from
17 my point of view it was an assessment outstanding, it
18 had been re-referred, it was obviously still a concern
19 for Ms. D and had been re-referred again and I felt
20 there was an outstanding piece of work there. I 10:28
21 suppose I contacted the Gardaí in the first instance as
22 they had previously investigated it and I wanted I
23 suppose to be aware was it exactly the same
24 information. If it was, why was there no prosecution?
25 was there not enough evidence? What was the situation? 10:28
26 And also, to obtain what their account of Mr. McCabe's
27 response was at that time.

28 100 Q. You see, you say in your statement at page 8 that, in
29 relation to the letter:

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"The reason for this is that the referral contained the same information on the previous social work file in Ms. D's name and I wanted to clarify whether these matters had already been fully investigated by An Garda Síochána." 10:29

A. Yes.

101 Q. If that was the case then there would be no need at this stage, 2013, to notify An Garda Síochána.

A. Which I didn't, I didn't notify An Garda Síochána. I wrote a letter to have a meeting in relation to a previous investigation. It wouldn't be unusual or out of practice for us to arrange strategy meetings or have meetings with Gardaí in relation to cases that are closed or cases that are opened if a new referral came in. I wasn't re-notifying it as a new allegation at that point. 10:29

102 Q. Yes. Well, obviously can the Tribunal take it then from your answer that on the basis of being satisfied that the referral did contain the same information, you wouldn't have referred it in terms of a formal notification to the Gardaí? 10:29

A. I probably -- I can't really answer that until I would have had feedback from Superintendent Cunningham. I would have liked to have some meeting with the Gardaí to clarifying that it was, to confirm it was exactly the same allegation before a determination was made in relation to notifying again or not. But I suppose I had said initially at my initial read of the referral 10:30

1 to "Duty to guard notify" I didn't amend that record
2 then to say don't notify until we get contact back,
3 which perhaps I should have.

4 103 Q. All right. well, in the fourth paragraph of the letter
5 we are looking at you say:

10:30

6
7 *"I would like to meet with you to discuss the case*
8 *prior to making any contact with the alleged*
9 *perpetrator. I would appreciate if you would contact*
10 *me to arrange a date to meet."*

10:30

11
12 And you provide your different phone numbers there.

13 A. Yes.
14 104 Q. Did you ever hear back from Superintendent Cunningham?

15 A. No.

10:30

16 105 Q. Or anyone on his behalf?

17 A. No.

18 106 Q. Did you make any inquiry as to why you didn't hear
19 back?

20 A. I didn't. At that point the case was awaiting
21 allocation and I had no further dealings with it.

10:30

22 107 Q. well, you see, you are the team leader, you have
23 written this letter about a policeman to a
24 superintendent in his district or division. You seem
25 to be anxious to find out what had happened or to
26 involve him in some way. Were you not concerned that
27 you should pursue the inquiry contemplated by your own
28 letter?

10:31

29 A. Ideally yes, but in the context of all the other cases

1 I was responsible for, at that point there was 230
2 unallocated cases across both office sites, I
3 had oversight of those 230 cases, this was just one of
4 them unfortunately and it wouldn't have been a high
5 priority in comparison to the other cases that were 10:31
6 waiting.

7 108 Q. Well, you see, your letter was -- you perhaps can
8 confirm this or disagree. This letter was found both
9 on Mr. McCabe's file and on the Ms. D file, isn't that
10 correct? 10:31

11 A. I wasn't aware, but yes, it would have been on
12 Mr. McCabe's file certainly.

13 109 Q. Right. So, by the time the letter is put on the
14 file -- did you put it on the file?

15 A. I don't recall. 10:32

16 110 Q. Okay.

17 A. I don't believe I did, because I didn't type the letter
18 myself. I am assuming that administrative staff did
19 that.

20 111 Q. Okay. But was Ms. Brophy's report not on the file at 10:32
21 the same time?

22 A. As I say I have never seen Ms. Brophy's report. I
23 don't believe I'd ever had any contact with the file
24 after 12th of August. I believe I wrote this letter
25 following a review of Ms. D's file. I believe the file 10:32
26 may not have even been opened at that point, it was
27 only in the process of being opened that day or the day
28 after. So I can't say for certain. I know that I
29 definitely never seen Ms. Brophy's written report --

1 112 Q. OK.

2 A. -- until the disclosure process.

3 113 Q. Okay. So, in terms of the genesis of the file, you
4 decided to open the file?

5 A. I decided a file would be opened, yes. 10:32

6 114 Q. And you decided a file would be opened not based upon
7 Ms. Brophy's written referral report?

8 A. That's correct. It was based on a verbal report from
9 Laura Brophy and the intake report completed by Briega
10 Tinnelly. 10:33

11 115 Q. Okay. And that is the only basis then for it at that
12 point in time?

13 A. Yes.

14 116 Q. Okay. And you say in your statement:
15
16 *"As I had identified that there was an outstanding
17 assessment to be completed in relation to Mr. McCabe's
18 response to the allegations and an assessment of any
19 future risk, if any, that he may pose a file was opened
20 in his name and the case was placed on the measuring
21 the pressure system, a list of cases on a database
22 awaiting allocation to a social worker for assessment."* 10:33

23 A. That's correct.

24 117 Q. Okay. So --

25 **CHAIRMAN:** So Mr. McGuinness, this was the first time a 10:33
26 Maurice McCabe file was actually opened in HSE --

27 **MR. MCGUINNESS:** Yes.

28 **CHAIRMAN:** -- Tusla Child and Family Agency?

29 118 Q. **MR. MCGUINNESS:** This is the moment of the creation of

1 the file?

2 A. Yes.

3 119 Q. Yes. And was there any involvement on the part of any
4 member of An Garda Síochána in that process?

5 A. None whatsoever.

10:34

6 120 Q. You spoke to no member of the Guards or wrote or
7 received no information from any member of the Guards
8 before you decided to create the file?

9 A. No. I wrote to Superintendent Cunningham, as you can
10 see there.

10:34

11 121 Q. Okay. Now, can I ask you to look at what is on the
12 file? And it's book 9, page 2189.

13

14 And just to explain for the benefit of you, chairman,
15 and my colleagues. The Tribunal made a preservation
16 order immediately upon its establishment relating to
17 the file in question, and it went on lock down in TúsIa
18 and we were provided with all the relevant documents
19 from it, and in the fullness of time a full facsimile
20 copy of the file, and what we have endeavoured to do in
21 the first four parts of volume 9 is to break down the
22 file into different years, as it would have, we
23 believe, stood as at the end of 2013, 2014, 2015, 2016.

10:34

10:35

24

25 And can I ask you, have you had an opportunity to see
26 these documents?

10:35

27 A. No. I know they were provided to me late on wednesday
28 night for disclosure, but I haven't been home since
29 yesterday morning. So no, I haven't had a chance to

1 review them in detail.

2 122 Q. All right. You are aware of the standard nature of the
3 files that are created when you decide to create a
4 file --

5 A. Yes. 10:35

6 123 Q. -- I take it. So, could we look at 2189 and can you
7 see that?

8 A. I can't see it just at the moment.

9 124 Q. Is there a blue --

10 A. I can see page 2190, it says "*File reference number*" 10:36
11 and the file number, it's just a big blue page.

12 125 Q. The big blue page?

13 A. Yes.

14 126 Q. And that appears to be the file reference number given
15 to Sergeant McCabe's file, is that correct? 10:36

16 A. Yes, yes.

17 127 Q. The next page then, 2190, the only entries on that are
18 the file number at the top, the date, which appears to
19 be the 15/8/13?

20 A. Yes. 10:36

21 128 Q. And Maurice McCabe, his name is correctly spelt there?

22 A. Okay.

23 129 Q. Now, is that your handwriting?

24 A. No, it's not my handwriting.

25 130 Q. Can you identify that? 10:36

26 A. It appears to me to be Denise Duignan's handwriting.
27 Denise is an administrator on the team. It looks like
28 her handwriting.

29 131 Q. Again like the intake form, it records his address as

1 "unknown".

2 A. That would be based on what was on the intake record.

3 132 Q. Right. And when an intake record is created, which
4 leads to a decision at a referrals meeting, which leads
5 to a decision to create a file, is there not an effort 10:37
6 made to identify the address of the person in respect
7 of whom the file is created?

8 A. Sometimes. But again, it's usually based on what is
9 contained in the intake record. Often we may be able
10 to ascertain the address. At that point it appears it 10:37
11 was based simply on what was the intake record which
12 was provided by Ms. Brophy.

13 133 Q. Okay. It's just, obviously your concern about there
14 being an outstanding assessment of the perpetrator --

15 A. Yes, yes. Alleged. 10:37

16 134 Q. -- is it not the first step to find out, well, where
17 can I get in contact with them?

18 A. It would be. And that, I believe, would be followed up
19 when the case was allocated to a social worker. Those
20 steps are usually taken at that point. 10:37

21 135 Q. It wouldn't be done beforehand?

22 A. It could be. In this case, it appears that it wasn't.
23 But it could be done at any stage. But it would have
24 been followed up at that point when the case was
25 allocated. 10:38

26 136 Q. Okay. what appears next in the file is a sort of
27 internal file folder or tab?

28 A. Yes.

29 137 Q. Does that appear as a standard part of every file

1 created?

2 A. It did at that time, yes.

3 138 Q. Yes. And that is a pink tab or folder perhaps?

4 A. Yes.

5 139 Q. And it says: *"Standard form for reporting child protection and/or welfare concerns, Appendix 1 yellow form."* 10:38

6

7

8 A. Yes.

9 140 Q. And underneath that it says: *"Social work intake template."* 10:38

10

11 A. Yes.

12 141 Q. *"Initial assessment form as per national guidance."*

13 A. Yes.

14 142 Q. *"Comprehensive assessment" and then "Notification Details"?* 10:38

15

16 A. Yes.

17 143 Q. And that, behind that is the actual intake form which we have been discussing?

18

19 A. I just can't see that at the moment.

20 144 Q. Yes, page 2192 onwards. 10:38

21 A. Yes.

22 145 Q. Which is four pages. The next part of the file appears to be a blue internal tab or folder which would seem to envisage a standard notification form each way to be put, that is by the HSE or by the Gardaí? 10:39

23

24

25

26 A. Yes.

27 146 Q. And then a joint action sheet?

28 A. Yes.

29 147 Q. Okay.

1 **CHAIRMAN:** Just for my clarification, Mr. McGuinness,
2 up to that point the blue divider, the couch allegation
3 is correctly stated?
4 **MR. MCGUINNESS:** Yes.
5 **CHAIRMAN:** Yes. 10:39
6 148 Q. **MR. MCGUINNESS:** The next -- there is no document
7 behind that, it appears to go on to the next internal
8 tab or folder, which on the side is marked "*Contacts*".
9 A. Yes.
10 149 Q. And it says: "*This section to contain copies of case* 10:39
11 *notes/contacts about the case, including all*
12 *correspondence.*" And there is a reference to appendix
13 10. That is presumably of the Children First
14 Guidelines?
15 A. Okay. 10:40
16 150 Q. Is that right?
17 A. Sorry, just repeat that to me again.
18 151 Q. The reference to appendix 10?
19 A. I just can't see --
20 152 Q. Under the first heading. 10:40
21 A. Yes, I am not sure if -- I am not sure what that refers
22 to.
23 153 Q. Okay. The next bullet-point is: "*Record/details of*
24 *verbal and written contacts with the child's*
25 *parents/carers.*" The next bullet point is: "*Details* 10:40
26 *of inquiries about the case and action agreed or not*
27 *following discussion.*" The next bullet point is:
28 "*Record of correspondence between the worker and other*
29 *professionals/agencies, including working arrangements*

1 *and actions agreed.*" Next bullet point is: *"Records*
2 *to indicate whether the contact was a telephone call,*
3 *office visit or home visit and who was present."* The
4 next is: *"Each entry to be dated and signed on each*
5 *occasion. These notes to be filed in chronological* 10:40
6 *order with most recent notice to the front. These*
7 *notes to be typed, where possible, and contemporaneous*
8 *notes attached in cases as appropriate."*

9 A. Yes.

10 154 Q. Now, from your knowledge, is such a tab normally part 10:40
11 of the file such as is found here?

12 A. Yes, at that time, yes, it would have been.

13 155 Q. Then the next divider is an indigo coloured one?

14 A. Yes.

15 156 Q. Which says CPN1 form, CPN2 form and CPN3 form? 10:41

16 A. Yes.

17 157 Q. Can you help the Tribunal, what does that envisage?

18 A. I understand that that's in relation to child
19 protection notification. That's in relation to
20 children who are on the CPNS, the Child Protection 10:41
21 Notification System. It's usually an internal form in
22 relation to children where there would be a child
23 protection conference, is my understanding. I am open
24 to correction on that, but it appears to me that that
25 is what that is. 10:41

26 158 Q. There is a repeat of that tab, and then at page 2200
27 there is another yellow tab. But and it says:

28
29 *"A Case summary/pro forma when updated every three*

1 months by the assigned key worker to be included in
2 this section."

3

4 And then at bullet point:

5

10:42

6 "To include a summary of significant events, critical
7 incidents and work undertaken with the child and family
8 in chronological order."

9

10 A. Yes.

10:42

11 159 Q. "Details of case closure to be included in this section
12 as part of final case summary." And there appears to
13 be nothing then behind that section.

14 A. Okay.

15 160 Q. The next internal tab is a green coloured tab.

10:42

16

17 "This section to contain copies of all reports."

18

19 And it details what should be there: Case conferences,
20 child care reviews, etcetera, copies of school reports,
21 copies of minutes of meetings to be attached to
22 relevant reports, reports to be dated and records of
23 meetings to indicate who attended the meeting and
24 whether the child and family were in attendance.

25 A. Yes.

10:42

26 161 Q. And the final bullet point on that is:

27

28 "The cover sheet outlining the contents of this section
29 should be included and updated as part of the

1 A. I seen it as part of the disclosure. That is a
2 standard template that is generated by admin following
3 the referrals meeting, all professional referrals
4 receive an acknowledgement letter. It's not something
5 I sign off on, it's pp-ed on my behalf by admin. 10:44

6 168 Q. It's got your name obviously as the team leader --

7 A. Yes. It's a standard template letter, yes, of
8 acknowledgement.

9 169 Q. And the next tab is "*Care Plan*" tab, which is envisaged
10 that a copy of the care plan or an access plan would be 10:44
11 included there. And the next tab is "*Any other*
12 *correspondence --*" I think "*-- about the case,*
13 *including letters from the child, letters from social*
14 *work department, letters to and from other HSE*
15 *departments.*" And that appears to be the file -- that 10:44
16 is a copy of the file as presented to us with anything
17 emanating from 2013.

18 A. Okay.

19 170 Q. Now, can you assist me in that regard? Where ought
20 Laura Brophy's report to have been put on the file at 10:45
21 the time, in what section?

22 A. I suppose I would assume it would either go at the
23 referrals section behind the intake record or it would
24 go in her correspondence or report section. Generally
25 it would be in the referrals section. 10:45

26 171 Q. In the referrals section?

27 A. Generally, yes.

28 172 Q. And just to be clear what you mean by that, is that at
29 page 2191 behind that tab?

1 A. Can I just see that page, please?

2 173 Q. Yes.

3 A. Yes.

4 174 Q. Behind that tab?

5 A. Yes, that is where I would ordinarily imagine it to be. 10:46

6 175 Q. Now, obviously we know that Ms. Brophy wrote and
7 secured the return of the incorrect referral form which
8 was returned to Ms. Ward on the 1st July, but is there
9 any other document that you think was on the file at or
10 around the end of 2013 and before you left in January? 10:46

11 A. As I say, I don't remember ever seeing the file
12 compiled. I gave the instruction to compile a file but
13 I don't remember ever actually handling the file or
14 having it compiled. I believe that what would have
15 been on it would have been Laura Brophy's report, if it 10:46
16 was received on the 12th, as is indicated. I don't
17 imagine there was any other documents other than that,
18 and the intake record and my letter and the letter of
19 acknowledgement to Laura Brophy. I don't imagine there
20 was any other records that aren't on it now that would 10:46
21 have been on it.

22 176 Q. Now, just in terms of Ms. Brophy's file, Ms. Brophy's
23 report, have you any reason to believe that that was
24 not put on the file?

25 A. No. I don't. I know it wasn't available to me at the 10:47
26 referrals meeting on that Monday morning, and I am not
27 sure -- it says it was received on 12th, I am not
28 disputing that. I am not sure, if this file wasn't
29 created till the 15th, it wouldn't have made its way to

1 the file until 15th. But I can't be certain about that
2 at this point.

3 177 Q. And in terms of your letter which is on the file in the
4 place in which we have found it to be on the file, is
5 it your function to put the letter on the file? 10:47

6 A. It could be. In this case, I don't recall doing that,
7 I don't recall seeing the file compiled. I would
8 imagine that when admin signed the letter for me and
9 typed it that they would have placed it on the file.

10 178 Q. The intake form obviously states in section 7 that 10:48
11 Laura will send in a written report, a written
12 referral, isn't that right?

13 A. Can I just see the intake record again, please?

14 179 Q. It is at the bottom of page 1327:
15 10:48

16 *"Laura agreed to send in standard notification form."*

17 A. Yes.

18 180 Q. So, you saw that, obviously?

19 A. I am assuming I did at the time, yes.

20 181 Q. When you reviewed the form would you not have thought 10:48
21 it prudent to either await the arrival of it or to
22 check its contents before making any decision?

23 A. Generally not, sometimes there can be delay in reports
24 coming in, staff can be sick or leave, we generally
25 just assume -- as soon as we get the verbal referral we 10:49
26 act on that, and we proceed to complete the intake
27 record at that point. I would have no reason to think
28 that the information on the form would have been in any
29 way different to what Laura had already reported in her

1 verbal conversation with Ms. Tinnelly. I would have no
2 reason to believe that the information would be
3 different.

4 182 Q. Okay. Your letter to Superintendent Cunningham, it
5 makes no mention of enclosing anything. Did you 10:49
6 enclose Ms. Brophy's -- a copy of Ms. Brophy's report
7 with your letter to Superintendent Cunningham?

8 A. As I said, I have never seen Ms. Brophy's written
9 report until the disclosure of this process.

10 183 Q. So your evidence is it certainly wasn't enclosed then? 10:49
11 A. No.

12 184 Q. Is there any reason for you to believe that
13 Ms. Brophy's report was copied from the file and given
14 to An Garda Síochána by anyone?

15 A. No. At that time absolutely not, no. 10:49

16 185 Q. The file having been created, where was that stored or
17 kept?

18 A. I can't recall, but nearly all files, unless they were
19 allocated, would have been placed on a central filing
20 system in the main admin office. 10:50

21 186 Q. In a filing system?

22 A. Yes. I am only making an assumption that is were it
23 would have been placed. That is where most files, when
24 they were allocated, were placed in a general filing
25 system. It's a large cabinet in the admin room. 10:50

26 187 Q. In the admin room?

27 A. Yes.

28 188 Q. Okay. Do the Gardaí have access to that room?

29 A. No.

1 189 Q. Are there any meetings ever held in that room with
2 members of An Garda Síochána?

3 A. No, it's an open plan admin office. No meetings would
4 take place in that room.

5 190 Q. Is it kept in a locked file? 10:50

6 A. Yes.

7 191 Q. And is it a file for unallocated files?

8 A. Allocated and unallocated, but the majority -- most
9 social workers kept their allocated files in their own
10 offices in a filing cabinet there. It had some 10:50
11 allocated cases but the majority of cases would be
12 unallocated.

13 192 Q. Well, are they taken out and discussed at regular
14 intervals?

15 A. Not necessarily. It depends on the case and who is, I 10:51
16 suppose, reviewing the files. It would depend.

17 193 Q. Did you have any involvement in any decision as to when
18 it would be allocated or to whom it would be allocated?

19 A. At that point, when I left the service it still was
20 unable to be allocated at that point. We still had a 10:51
21 very high waiting list of serious child protection
22 cases of young children at risk and unfortunately they
23 had to take priority. The plan -- my plan was always
24 to allocate the case when capacity allowed but
25 unfortunately that didn't happen in this case. 10:51

26 194 Q. If the file constituted the very few documents that we
27 have seen with the addition of Ms. Brophy's report at
28 the end of 2013, would it have been appropriate to
29 allocate the file without any further involvement or

1 meeting with An Garda Síochána?

2 A. I would assume when allocated the social worker then
3 under supervision of the team leader would follow up
4 with an gardaí and pursue that matter at that point if
5 needed. 10:52

6 195 Q. And going back to your letter to Superintendent
7 Cunningham, would you have diaried a follow-up deadline
8 if you hadn't heard back from him at any particular
9 stage?

10 A. I hadn't at that point. I am assuming -- I probably 10:52
11 thought I would remember and follow it up or it would
12 be, I would get to that point at review of files. But
13 given the other cases that arose after this case, I
14 know October was particularly busy, I was in court
15 myself the majority of the month, it wouldn't have been 10:52
16 a priority for follow-up for me, unfortunately, at that
17 time. Other demands had taken over.

18 196 Q. So, just to be clear, you have obviously sworn in
19 evidence that you have never seen Ms. Brophy's report?

20 A. No. That is my recollection. 10:53

21 197 Q. And you never saw, you think, the standard form
22 acknowledgement that went out to Ms. Brophy?

23 A. I seen it for this process in relation to disclosure.
24 It's not something I would generally see. They go out
25 on every case that is referred in to professional 10:53
26 referrals.

27 **CHAIRMAN:** Mr. McGuinness, would you please remind me
28 what is the date of the false Ms. Y/D erroneous report
29 from Ms. Brophy?

1 **MR. MCGUINNESS:** What was the date?

2 **CHAIRMAN:** Yeah. In other words, when did it actually
3 come into the system?

4 **MR. MCGUINNESS:** The 12th of August.

5 **CHAIRMAN:** Yes. From the? 10:53

6 **MR. MCGUINNESS:** 2013. From Rian.

7 **CHAIRMAN:** And does it appear on this file?

8 **MR. MCGUINNESS:** It doesn't appear on the file because
9 the original was sent back to Ms. Ward.

10 **CHAIRMAN:** Okay. I thought it did. And again, this is 10:53
11 something that I don't know and that is why I am asking
12 the question. I thought it -- that when you go on to
13 page 221 -- sorry, 2212, that that is it appearing on
14 the file, but I may be wrong. And as to when it
15 appeared on the file, again I actually don't know. 10:54

16 **MR. MCGUINNESS:** No, 2212 is the first of the intake
17 records --

18 **CHAIRMAN:** Yes.

19 **MR. MCGUINNESS:** -- relating to the 30th of April 2014.

20 **MR. MCDOWELL:** It appears to be in relation to 10:54
21 children, Judge.

22 **CHAIRMAN:** Yeah, I know, but it has the incorrect --
23 well, I am sorry, I just can't work out, I am a bit
24 lost and that is not your fault, it's mine.

25 **MR. MCGUINNESS:** I am sorry, chairman, it may well be. 10:54
26 The documents that I have asked the witness to look at
27 are the documents, and only the documents, that were
28 generated in 2013 and were or should have been on the
29 file.

1 **CHAIRMAN:** Yes.

2 **MR. MCGUINNESS:** And they included Ms. Brophy's report
3 at that point in time, we believe.

4 198 Q. And you are not aware of any other document that was or
5 could or should have been on the file in 2013? 10:54

6 A. No, no.

7 **CHAIRMAN:** Mr. McGuinness, but by referring to
8 Ms. Brophy's report, and again it's just the chronology
9 I drew up prior to the case is perhaps wrong, and that
10 is why I wanted to correct it -- 10:55

11 **MR. MCGUINNESS:** Yes.

12 **CHAIRMAN:** -- the telephone referral is of course
13 correct.

14 **MR. MCGUINNESS:** Yes.

15 **CHAIRMAN:** Where Ms. Brophy spoke to Briega Tinnelly. 10:55

16 **MR. MCGUINNESS:** Yes.

17 **CHAIRMAN:** And then the written report, which follows a
18 few days later, which contains the word-processing
19 error, Ms. D/Ms. Y and the names of Ms. D and Ms. Y, is
20 incorrect. So I am just wondering what happened to 10:55
21 that, did it go down the road, and it is only down the
22 road, to social work, and then come back, or did
23 somebody copy it and put it on a file or what was the
24 story about that?

25 **MR. MCGUINNESS:** well, as -- 10:55

26 **CHAIRMAN:** Insofar as we know.

27 **MR. MCGUINNESS:** Yes. As you would have seen,
28 chairman, the intake record records that Laura agreed
29 to send in standard notification form. The evidence

1 from Ms. Brophy is obviously that she did send it in,
2 in the wrong -- with the wrong allegation, obviously.
3 The Ms. Y allegation. And we believe it was put on the
4 Maurice McCabe file and was --

5 **CHAIRMAN:** which by then had been created? 10:56

6 **MR. MCGUINNESS:** which by then had been created on the
7 15th of August.

8 **CHAIRMAN:** Yeah.

9 **MR. MCGUINNESS:** And we believe it remained on the file
10 until actions were taken the following year, 10:56
11 particularly in April 2014 when the child intake
12 records were created, which carried over the erroneous
13 allegation.

14 **CHAIRMAN:** Yes.

15 **MR. MCGUINNESS:** So, chairman, what you have referred 10:56
16 to there as 2212, that relates to the next year after
17 this witness had left the service, so --

18 **CHAIRMAN:** No, and I am appreciating that and I am
19 appreciating the witness's position is: That what was
20 reported to me was what was reported over the phone, 10:56
21 that was accurate, insofar as anything in writing came
22 in I was entitled to assume that it wasn't going to be
23 inaccurate, that it was the same. But what is missing,
24 Mr. McGuinness, and maybe Ms. McGlone could help or
25 you could help is the erroneous Ms. D/Ms. Y report 10:57
26 containing both their surnames and containing the
27 different and much more serious actual sexual assault
28 allegation, did that somehow go to social work and then
29 go somewhere else and disappear, or what happened to

1 it? And I don't know if anybody can help on that.

2 **MR. MCGUINNESS:** well, we know ultimately, chairman,
3 from Ms. ward's evidence, that it was returned to Rian
4 in July 2014. And it's certainly the belief that it
5 was on the file from the time it was received in 2013 10:57
6 up until the time it was returned, and was used as the
7 basis for the intake records, which repeated the
8 incorrect Ms. Y allegation.

9 **CHAIRMAN:** And the intake records would have been
10 compiled by whom? 10:57

11 **MR. MCGUINNESS:** well, by Laura Connolly, who is a
12 witness to be heard in due course.

13 **CHAIRMAN:** And which agency are we going to there?

14 **MR. MCGUINNESS:** well, this is in social work in Cavan.

15 **CHAIRMAN:** Yes. 10:58

16 **MR. MCGUINNESS:** where Ms. McGlone is.

17 **CHAIRMAN:** I see. So it remained on the file for
18 eleven months but was copied in the course of those
19 eleven months?

20 **MR. MCGUINNESS:** well, there is no evidence it was 10:58
21 copied.

22 **CHAIRMAN:** well, I don't know. Again this is where I
23 am lost. And I appreciate we are trying to work it
24 out, but I am sorry.

25 **MR. MCGUINNESS:** Yes. And I have asked the witness. 10:58

26 199 Q. You have no reason to believe that Ms. Brophy's report
27 wasn't on the file in the place --

28 A. No, I don't dispute that it was on the file. I know
29 that I'd never seen it. But again my involvement

1 seemed to be prior to the file being created as such.
2 I suppose just to clarify, my understanding, sir, is
3 that the information that Laura Connolly completed was
4 based on that information that was on the file. So
5 there is no dispute that information was on the file at 10:58
6 that time. It has since been returned to Rian, as you
7 said, on the 1st July, it seems.

8 200 Q. And certainly you being unaware of Ms. Brophy's report,
9 you made no copies of it yourself?

10 A. No. 10:59

11 201 Q. You didn't send it to Superintendent Cunningham?

12 A. No.

13 202 Q. You have no reason to believe that any other copies
14 were made?

15 A. No, I have no reason to believe any copies were made of 10:59
16 it, no. But the information -- I know your question,
17 sir, was in relation to the information, would have
18 been taken from that and placed on guard notification
19 in 2014, which is not my evidence but I know from
20 disclosure that seems to be what occurred. 10:59

21 203 Q. Yes. And certainly, it wouldn't be standard practice
22 or would there be any reason to either take it off the
23 file or copy it and send it on anywhere else?

24 A. No. That is not standard practice.

25 204 Q. In terms of the management of the unallocated files, 10:59
26 this was obviously, to your knowledge, an allegation
27 made against someone who is believed to be a serving
28 member of An Garda Síochána?

29 A. Yes.

1 205 Q. And was it discussed at any meetings that you were
2 present at before you left?

3 A. No, other than at referrals meeting that particular
4 day. No, it wasn't discussed at any further meeting.

5 206 Q. And what about any measuring the pressure meetings or 11:00
6 review of unallocated files?

7 A. No. Again I was aware that it was awaiting allocation,
8 but again, as I have stated, there were 230 cases at
9 that point awaiting allocation, this unfortunately was
10 one of those and it wouldn't have been one of the 11:00
11 higher priority ones in the context of the other cases
12 that were waiting.

13 207 Q. Did you speak with any members of An Garda Síochána
14 about the files since you authorised its creation?

15 A. No. 11:00

16 **MR. MCGUINNESS:** Thank you, Ms. McGlone.

17 A. Thank you.

18

19 **MS. MCGLONE WAS CROSS-EXAMINED BY MR. MCDOWELL AS**
20 **FOLLOWS:** 11:01

21 208 Q. **MR. MCDOWELL:** Ms. McGlone, Michael McDowell is my name
22 and I am one of the barristers appearing in this
23 Tribunal for Maurice McCabe. Could I ask you to look
24 at what is written on page 1316, please, of the book?
25 That is part of your witness statement. 11:01

26 A. Oh, sorry, I have a statement here 1216.

27 209 Q. 1316.

28 A. Sorry.

29 210 Q. Do you have that?

1 A. Yes.

2 211 Q. And it reads:

3

4 *"As I know that I reviewed the alleged victim's file*
5 *(Ms. D) and I wrote a letter to the previous* 11:02
6 *investigating member of An Garda Síochána, the reason*
7 *for this is that the referral contained the same*
8 *information on the previous social work file in Ms. D's*
9 *name and I wanted to clarify whether these matters had*
10 *already been fully investigated by An Garda Síochána.* 11:02
11 *If that was the case, then there would be no need at*
12 *this stage to notify An Garda Síochána."*

13 A. Yes, that is my statement.

14 212 Q. Yes. And do you stand over that, that if it was the
15 same material there was absolutely no reason to contact 11:03
16 An Garda Síochána about it?

17 A. If I had had successful contact with An Garda Síochána
18 and had a meeting with them I would have been satisfied
19 at that point it may not need to be notified again, but
20 as no meeting took place I can see why a garda 11:03
21 notification was completed.

22 213 Q. And we will come to that first of all. But your state
23 of mind was you wanted to check, is this the same
24 complaint? If so, we are bringing it no further with
25 An Garda Síochána, isn't that right? 11:03

26 A. In relation to An Garda Síochána. I also wanted to
27 establish from them Mr. McCabe's response, yes.

28 214 Q. As regards going to An Garda Síochána, your position
29 was very simple: If it turned out to be the same

1 complaint you were bringing it no further with them?
2 A. With An Garda Síochána, we still had an outstanding
3 piece of work ourselves, yes.
4 215 Q. Would you answer the question? And I know you want
5 argue with me but I want to say as far as An Garda 11:03
6 Síochána is concerned you did not want to bring the
7 matter any further if it was the same information?
8 A. If I had the chance to clarify and confirm that with
9 them, yes.
10 216 Q. Yes. Now, secondly, we have heard from Laura Brophy 11:04
11 that she wanted to know if this was the same material
12 before that had been reported before, whether, if it
13 was reported to your service, it would be sent on to An
14 Garda Síochána, and she contacted your service to try
15 and ascertain that fact, isn't that right? 11:04
16 A. I wasn't here for all of her evidence, but I understand
17 that is her position, yes. She wanted to know did we
18 have a record of it. I am not sure her priority was in
19 relation to An Garda Síochána. I think she wanted to
20 know were there outstanding child protection issues to 11:04
21 be addressed.
22 217 Q. I think you are speculating again on this. I think she
23 told us that Ms. D was concerned about the matter being
24 reported to An Garda Síochána at all in 2013. You are
25 aware of that, are you? 11:05
26 A. Again, I wasn't here for all of Ms. Brophy's evidence.
27 But, yes.
28 218 Q. And she wanted to check by telephone with your service
29 as to whether, if she did report the same allegation of

1 abuse that had been investigated in 2006/2007, whether
2 it would be reported on to An Garda Síochána. That was
3 an anxiety on behalf of Ms. D and she wanted to tell
4 Ms. D what the consequence of putting the matter in
5 your hands would be and identifying the alleged 11:05
6 perpetrator. You are aware of that, aren't you?

7 A. I am aware, you are after telling me, yes. I wasn't
8 aware of that prior to now. I am not sure exactly -- I
9 know Ms. Brophy had wanted to know -- in her evidence
10 what she has said - was there a previous file, did we 11:05
11 have previous involvement. I am not sure in relation
12 to An Garda Síochána what she was asking.

13 219 Q. She wanted to know two things: First of all, had there
14 been -- had the material on the file been previously
15 investigated by your service, isn't that right? 11:06

16 A. I accept what you are saying, yes, yes.

17 220 Q. And she also wanted to know whether, if she reported
18 the same material as had been reported in 2006, it
19 would be re-notified to An Garda Síochána, that was a
20 concern of hers. And she told the Tribunal that she 11:06
21 was told it would be. That is what she said. Now, it
22 was Ms. Tinnelly led her to believe that it would be
23 reported to An Garda Síochána. And she says that she
24 went back to Ms. D and told her this and Ms. D was okay
25 for the matter to be progressed on that basis. So, I 11:07
26 am just wondering why, on the morning of the 12th, when
27 you opened the file and realise that this matter has
28 been investigated by An Garda Síochána, you didn't then
29 go back to the document you say was created on the 9th

1 and take out the reference to duty to notify on Garda
2 Síochána?

3 A. The reason is at that point I had decided that I wanted
4 to meet with An Garda Síochána, who had previously
5 investigated the matter, to confirm and clarify that it 11:07
6 was in fact the exact same allegation, and from their
7 point of view was it fully investigated, what was the
8 reason for no prosecution and ascertain would a further
9 referral be required at that point or not. That's --

10 221 Q. Yes. But if it turned out it was the same allegation, 11:08
11 it was to go no further with An Garda Síochána, we are
12 agreed on that, aren't we?

13 A. If the Gardaí confirmed that with the service.

14 222 Q. Yes. Now, if the Gardaí confirmed it, what you are
15 really saying is, if Superintendent Cunningham 11:08
16 responded to your letter and said, that's the same old
17 allegation that was fully gone into, isn't that what
18 you were expecting?

19 A. Yes. When I had written to him requesting a meeting, I
20 did assume I would get a response, yes. 11:08

21 223 Q. And you see, Ms. Brophy gave evidence here that she had
22 told Ms. Tinnelly that it was the same allegation that
23 had been investigated. It's at page 8 of Ms. Brophy's
24 evidence here on the second day of this Tribunal. She
25 said that she told Ms. Tinnelly that it was the same 11:09
26 allegation?

27 **CHAIRMAN:** Is it possible, I don't know, for the
28 technical people to put up the particular bit of the
29 transcript just for the benefit of the witness. If you

1 just give us a reference, we will see if it can be
2 done. Is it possible to do that? No, it's not loaded
3 on the system. So if you want to just pass over
4 your --

5 **MR. MCDOWELL:** The note in question read as follows: 11:09

6
7 *"Laura advised --"*

8
9 And this is Ms. Tinnelly's note.

10 11:09
11 *"-- that she has a client at present called Ms. D, who*
12 *is now 21. She is self-referred to the service. Ms. D*
13 *told Laura that she was abused when she was six or*
14 *seven by Garda Maurice McCabe who was her father's*
15 *Garda partner at the time. Ms. D's father is a guard. 11:09*
16 *Maurice McCabe was stationed at Bailieboro at the time.*
17 *His two daughters were three and five at the time.*
18 *Ms. D blocked out the abuse and it came back to her*
19 *when she was approximately eleven, when she had sex*
20 *education in school and reported it to Gardaí. But 11:10*
21 *there was no prosecution from the DPP. The details of*
22 *the abuse is Ms. D was playing hide and seek in Maurice*
23 *McCabe's house when Maurice put her on the couch,*
24 *tickled, her touched her inappropriately while gyrating*
25 *on top of her with clothes on." 11:10*

26
27 So that is the allegation.

28 **CHAIRMAN:** No, but I think the point you are pursuing,
29 Mr. McDowell, forgive me and it's my confusion, the

1 point you are making is that Ms. D had confirmed to
2 Laura Brophy look, this is not a new allegation, this
3 is something that happened in 1998, allegedly, was
4 reported to the Gardaí in 2006, and in 2007 the DPP
5 said, look, it's not sexual assault, etcetera. 11:10

6 **MR. MCDOWELL:** Yes.

7 **CHAIRMAN:** And there is going to be no prosecution.
8 And what you are saying to Ms. McGlone is, that the
9 fact that this wasn't new, in other words many sex
10 offences recur again and again and again, but this was 11:11
11 not one, this was one alleged allegation way back, not
12 new, and that was told by Laura Brophy to Ms. Tinnelly.
13 So therefore, there would have been no need for to you
14 check with the Gardaí. I think that is the point you
15 are making. 11:11

16 **MR. MCDOWELL:** That is the point. That is the point.

17 A. Yes, I take your point. I didn't have that direct
18 conversation with Ms. Brophy. I know that that
19 conversation was with Ms. Tinnelly and I can't confirm
20 what discussion they had. It is clear that Briege has 11:11
21 noted that Ms. D had reported to Ms. Brophy that it had
22 been investigated by the Gardaí. I still felt I had an
23 outstanding piece of work to verify that and to clarify
24 that with An Garda Síochána.

25 224 Q. Well, let's be very clear. Ms. Brophy told this to the 11:11
26 Tribunal in evidence, that she was told by your
27 department, and I think it's Ms. Tinnelly, that if she
28 identified Maurice McCabe as the man involved in the
29 2006 allegation that it would be reported to An Garda

1 Síochána by your department if they were informed of
2 it.

3 A. Again, I can't answer what Briega said or didn't say to
4 Laura. I wasn't party to that conversation. But I
5 imagine if - if I am allowed to speculate to respond to 11:12
6 that - that Briega was basing this on the premise that
7 she didn't think this case was already known. She had
8 already said there was no previous file on Maurice
9 McCabe. She perhaps gave that information thinking
10 this case hadn't been dealt with previously by our 11:12
11 department. I am not clear.

12 **CHAIRMAN:** Again please excuse the interruption both of
13 you, but look, the way I am looking at it is this, and
14 if I am corrected I am corrected and that is fine. But
15 if you go in nowadays, and we are saying nowadays is 11:12
16 2013 as well, and you say to a counsellor 'I was
17 sexually abused', if you don't want to reveal the name,
18 the counsellor can't do anything more, but if you do
19 reveal the name the counsellor makes it perfectly clear
20 to you, look, then my confidentiality obligations are 11:13
21 at an end, this has to go to the relevant service,
22 which is actually social work and Garda and they act
23 together to see are there any other children at risk.
24 That is the bottom line of all of this. Now, in the
25 event, and this is what Mr. McDowell is asking you 11:13
26 about, it may be a misunderstanding on your part and my
27 part, what Mr. McDowell is asking you about is: Look,
28 if it had already gone to the Gardaí, if it was the
29 same, if it had already been investigated, then the

1 whole idea of involving social work, of involving the
2 Gardaí would be pointless because we have gone through
3 all that, what is the point in investigating something
4 a second time unless there is something new? And if it
5 was the same allegation, and this is what Laura Brophy 11:13
6 had told Briege Tinnelly, then there was no need for it
7 to go further. I think that is the point Mr. McDowell
8 is making.

9 **MR. MCDOWELL:** That is the point.

10 **CHAIRMAN:** I don't know if that is clearer for you. 11:13

11 A. Maybe it is. But I suppose I am misinterpreting
12 perhaps that we still had an outstanding role and my
13 understanding is that Ms. D had said to Ms. Brophy she
14 wasn't sure if she had previous social work involvement
15 or not and I understood that Ms. Brophy wanted to 11:14
16 clarify from a child protection perspective were we
17 aware of the allegation and did we require follow-up.
18 I think the garda bit was a secondary concern to
19 Ms. Brophy, is my understanding. Perhaps I am
20 misinterpreting that. 11:14

21 225 Q. **MR. MCDOWELL:** well, you are right on that. I mean,
22 clearly she also wanted to check whether your service
23 was aware of this allegation as well.

24 A. Yes.

25 226 Q. And did you discuss this matter with Ms. Tinnelly on 11:14
26 the day that you both signed that form?

27 A. No, I wasn't aware of any conversation with
28 Ms. Tinnelly in relation to looking for a previous
29 file. Again, I didn't have a conversation with Briege

1 Tinnelly to my memory. As I said yesterday, I imagine
2 that the intake record was left in the tray with all
3 the others for me to sign that day. I don't remember a
4 specific conversation with Ms. Tinnelly about it.

5 227 Q. But it wasn't simply a matter of you signing something, 11:15
6 you read it because you put your own comments down on
7 it, isn't that right?

8 A. Yes, I read it, yes.

9 228 Q. Yes. And one of the comments was the one in the box
10 "*known previously*", is that right? 11:15

11 A. "*Query previously known*" I think is my words, yes.

12 229 Q. Yes. And the other was "*Duty to notify Gardaí --*" or
13 "*Notification Garda Duty*" is that right?

14 A. "*Duty to guard notify and await assessment*" I think.
15 "*Await allocation*". 11:15

16 230 Q. At that point, I just want to ask you at that point why
17 did you write that second comment in on the bottom of
18 that page?

19 A. Again, I can't be a hundred percent certain on this, I
20 don't recall even completing that form, but from a 11:15
21 review of the file for this process and review of the
22 intake record I imagine that I wrote that on the Friday
23 without having had at that point seen Ms. D's file
24 which I would have looked at on the Monday, I assume.

25 231 Q. If your evidence is correct that is certainly the case. 11:16

26 A. Yes.

27 232 Q. If you wrote it in on the Friday --

28 A. Yes.

29 233 Q. -- you hadn't seen the file?

1 A. Yes.

2 234 Q. I am just asking you why you wrote that particular note
3 down about duty to notify Gardaí?

4 A. Because at that point I wasn't aware it was the exact
5 same information, I wasn't aware that it had been 11:16
6 investigated from our point of view. I note that
7 Briega had said that Ms. D had said it had been --

8 235 Q. But why did you write it down?

9 A. I don't -- I can't answer that. I don't know. I
10 assume that at that point I was intending to 11:16
11 guard-notify it.

12 236 Q. I see.

13 A. Or to --

14 237 Q. So without discussing it with Briega Tinnelly and
15 without considering it at any length, you were forming 11:16
16 a preliminary view that you would -- that there was a
17 duty to notify the Gardaí?

18 A. Yes.

19 238 Q. And you put that on the form?

20 A. Yes, I did. 11:16

21 239 Q. Okay. Now, Monday comes along and before you have your
22 referrals meeting or afterwards or immediately
23 afterwards, you take out the file, isn't that right?

24 A. Yes, that is my understanding of what happened. Again
25 I can't recall exactly. 11:17

26 240 Q. And from the file it's apparent that it was the Gardaí
27 on the 2nd of January 2007 who notified your service of
28 this allegation and there is a form there which says
29 that, isn't that right?

1 A. I can't recall what is on the file, I'd need to see it
2 again.

3 241 Q. And as you read it, the file, on the Monday, you were
4 definitely under no illusion but that the Gardaí knew
5 about these allegations, had investigated them and that 11:17
6 the DPP had directed no prosecution, isn't that right?

7 A. That's correct, yes.

8 242 Q. Now, we stop there and say, at that point, in your own
9 mind, did you say, well we won't have to notify the
10 Gardaí? 11:17

11 A. At that point I think I decided I wanted to meet with
12 the investigating member at the time to clarify
13 information.

14 243 Q. About what?

15 A. In relation to was it the -- at that point I didn't 11:18
16 have access to Ms. D's statement, so I wanted to
17 clarify was it the -- it appeared to be the same
18 information; was it the exact same information? Was it
19 fully investigated? My recollection is that all that I
20 could ascertain from the file was that there was no 11:18
21 prosecution, I didn't have any further detail on that.

22 244 Q. Well, can we agree this much: That as you read the
23 file on the Monday, a question-mark arose in your mind
24 as to whether it would, in fact, be necessary to notify
25 the Gardaí? 11:18

26 A. Yes, it must have been and that is why I wrote to
27 Superintendent Cunningham instead.

28 245 Q. Yes. Because writing a private and confidential letter
29 to Inspector Cunningham wasn't the standard form

1 notification procedure, isn't that right?

2 A. That's correct.

3 246 Q. Yes. And are we to take it that having written to
4 Inspector Cunningham -- or Superintendent Cunningham,
5 you left the file with a statement on it, "*duty to* 11:18
6 *Gardaí notify*", and you never went back to it?

7 A. I acknowledged that earlier in my earlier evidence this
8 morning, that perhaps I should have amended that note
9 to 'Await contact from Superintendent Cunningham', but
10 I didn't do that. I understand my letter would have 11:19
11 been stored with the file.

12 247 Q. You see, I am trying to sort out what happened
13 thereafter?

14 A. Okay.

15 248 Q. You don't seem to have had any involvement with this 11:19
16 file at all after you wrote, after you wrote out the
17 manuscript letter to Superintendent Cunningham for it
18 to be typed up, is that right?

19 A. That seems to be my recollection, yes.

20 249 Q. And yet, somehow, somebody in the service the following 11:19
21 May believes that was a standing instruction to notify
22 the Gardaí and proceeded to do it?

23 A. Yes.

24 250 Q. And that was your instruction, is that right?

25 A. That was my instruction on the intake record, yes. 11:19

26 251 Q. I see. So the involvement by your service of An Garda
27 Síochána stems from the fact that you, on the 9th of
28 August, wrote in on the form "*Duty to Garda notify*,"
29 realised that that might not be appropriate on the

1 Monday but did nothing to alter the state of the file,
2 is that right?

3 A. I suppose it's not that it was inappropriate on the
4 Monday; at that point I probably would have still been
5 waiting correspondence from Superintendent Cunningham. 11:20
6 I can understand why a guard notification was completed
7 in the absence of any further correspondence from him,
8 so I can't say it was inappropriate to guard notify in
9 the circumstances where no contact was received. I
10 would be speculating to say that I would what I did 11:20
11 differently. At the time I don't know had
12 Superintendent Cunningham contacted, then that would
13 have obviously generated another record on the file
14 which may have negated a guard notification but I can't
15 be certain about that. 11:21

16 **CHAIRMAN:** Sorry, just from this piece of the inquiry,
17 there was never any answer by Superintendent
18 Cunningham?

19 A. No.

20 252 Q. **MR. MCDOWELL:** And that combination of circumstances, 11:21
21 your direction that there was a duty to notify the
22 Guards, your realisation three days later that that
23 might not necessarily be so, and you wanted to contact
24 Superintendent Cunningham about it, that combination of
25 circumstances effectively was like an automatic pilot: 11:21
26 This file was going to be opened some day and somebody
27 was going to be handed it and told 'Notify the Gardaí',
28 is that what we are to believe?

29 A. I can see how that happened, yes. I suppose --

1 256 Q. And it was on that basis that you wrote to him this
2 private and confidential letter?

3 A. Yes. I wrote to him because he was the investigating
4 member at the time, and I knew then that he was based
5 in Monaghan, I wrote to him in the Monaghan office, 11:23
6 because that is where he was based, to my knowledge.

7 257 Q. And when you used the words "Ms. D and MMCC" you
8 understood that he would immediately know that this was
9 Sergeant McCabe?

10 A. Yes, as he investigated he would have recognised the 11:23
11 client's name, I assumed, Ms. D's name and he would
12 know who I was referring to.

13 258 Q. Now, as I understand it, you had a second concern and
14 you are saying to the Tribunal that nobody had ever
15 asked Sergeant McCabe for his account of the original 11:24
16 allegation?

17 A. Nobody from the Health Service Executive, I am aware
18 that the Gardaí may have interviewed and part of my
19 reasoning for wanting to meet Superintendent Cunningham
20 was to ascertain his response at that time and if he 11:24
21 could, I suppose, offer any further information in
22 relation to Mr. McCabe's response to the allegation.

23 259 Q. And it was now six or seven years since the matter had
24 been last considered by your service, isn't that right,
25 six years? 11:24

26 A. 2007 to 2013, yes.

27 260 Q. And apparently a decision had been made to close the
28 file without dealing in any way with Sergeant McCabe,
29 your service dealing with him in any way, is that

1 right?

2 A. Yes, Ms. D's file was closed and there was never a file
3 on Mr. McCabe.

4 261 Q. And did that surprise and disappoint you? Did you feel
5 this is strange? 11:25

6 A. I had identified there was an outstanding piece of
7 work, the previous social worker had also identified
8 that, I could see that from the file. Again I assume
9 practice had changed in the time in between, these six
10 years in between. To me it wouldn't have been usual 11:25
11 practice for a case to be closed without a
12 perpetrator -- alleged perpetrator being met to inform
13 and to ascertain their response and to assess any risk,
14 if any, that they may pose. So yes, I identified there
15 was work out standing from my point of view. 11:25

16 262 Q. I see. So, you intended, if you weren't moved within
17 the service, you intended that somebody would be
18 allocated the job of going and seeing Sergeant McCabe
19 and getting his side of the story, is that right?

20 A. That's correct, yes. Whenever capacity allowed to 11:25
21 allocate the case, yes.

22 263 Q. And was that also with a view to reopening the question
23 as to whether he constituted a risk to children that he
24 might deal with domestically or in the course of his
25 professional service? 11:26

26 A. That would be part of the assessment, yes.

27 264 Q. So you were going to carry out an assessment of him six
28 years after this event, is that right?

29 A. Yes. That was the intention; that it was a

1 retrospective referral. As those referrals are always
2 received retrospectively, so therefore it's a long time
3 since the incident usually occurred and that would be
4 standard procedure at that time; that we would meet
5 with alleged perpetrators, inform them of the 11:26
6 allegation, ascertain their response and carry out
7 an assessment, if required, in relation to that. we
8 would usually, as part of that, meet with the alleged
9 victim and ascertain I suppose their account of what
10 happened as well. 11:26

11 265 Q. Now, you were asked why nothing was done and you said
12 you had a workload of serious child sex abuse cases?
13 A. I didn't say sex abuse. Child abuse. It includes all
14 forms of abuse.

15 266 Q. Child abuse, yes. 11:27
16 A. Yes.

17 267 Q. And that they took priority, is that right?
18 A. Yes, children at serious and immediate risk took
19 priority.

20 268 Q. From that are we to draw the inference that you didn't 11:27
21 consider this was a serious matter?
22 A. It was a valid referral and it was a valid for me to
23 accept it at the time, I believe. But it certainly
24 wasn't as serious as some of the concerns we were
25 dealing with of children currently at risk. 11:27

26 269 Q. It was comparatively unserious, is that right?
27 A. In comparison to the other cases, it was less serious.

28 270 Q. And would you just elaborate on that? why did you
29 consider it was less serious?

1 A. Because there are children currently at risk, children
2 who are living at homes with an alleged abuser
3 currently residing with them where those children have
4 made allegations against that person. There are cases
5 where children have been seriously physically abused, 11:27
6 serious cases of neglect. Young children born with
7 heroin addiction that needed foster placement
8 immediately. There were ongoing court cases at that
9 time. There was certainly a whole remit of other cases
10 of children currently at risk, that retrospective 11:28
11 referrals unfortunately didn't take priority.

12 271 Q. Mr. McGuinness put it to you and I will have to ask
13 you: How you could possibly think that a child sex
14 abuser, an alleged child sex abuser was a member of An
15 Garda Síochána carrying on duties with the public at 11:28
16 the time, how you could possibly think that wasn't a
17 very serious matter?

18 A. It was serious, but it wasn't as serious as the
19 children at serious and immediate risk. I must stress
20 that those were children currently in homes where we 11:28
21 had credible valid allegations that they were currently
22 at risk. They had to take priority.

23 272 Q. So you didn't see an immediate risk, is that right?

24 A. It wasn't serious and immediate under the definition in
25 Children First, no. 11:28

26 273 Q. I see. But in any event, you had it in your mind that
27 at some point when the resources were available and at
28 some point that somebody would seek to interview
29 Sergeant McCabe about the allegation, is that right?

1 A. That's correct, yes.

2 274 Q. And you have seen the file since, is that right, for
3 the purpose of preparing this case?

4 A. Yes, I have.

5 275 Q. And is there any indication that anybody made any 11:29
6 attempt to tee up an interview with Sergeant McCabe at
7 any proximate time?

8 A. I suppose my understanding, I don't have the whole file
9 in front of me, I understand that later perhaps in, is
10 it 2015, 2016 a social worker tried to follow up with 11:29
11 Mr. McCabe at that point, but I can't be clear on the
12 dates, I don't have the file in front of me.

13 276 Q. There was a second file, was there not, in relation to
14 Ms. D?

15 A. There was a CSA file, yes, held by the CSA team which 11:29
16 was in a different department at that time.

17 277 Q. Did anybody in your section attempt at any stage to
18 have access to that in 2013 or 2014?

19 A. I don't know about 2014, I know in 2013 not, no.

20 278 Q. I see. So you didn't know and you didn't take any step 11:30
21 to find out whether the substance of the complaint
22 about the incident on the couch was the same as
23 recorded in the CSA file in respect of Ms. D in 2013?

24 A. I didn't, as I have stated, my limited involvement was
25 in relation to what I have already outlined in 2013. 11:30

26 279 Q. But if that was a matter of concern to you, you know,
27 is this something new or is this old hat, so to speak,
28 surely you had available to you a file which would have
29 clarified that matter without any difficulty?

1 A. Perhaps, yes. But as I say, the case wasn't -- I
2 wasn't actively working the case. It was something I
3 was trying to progress on that day. I hadn't allocated
4 the case to a worker for it to progress those type of
5 issues. 11:31

6 280 Q. Now, could I ask you, on the 9th of August 2013, when
7 you saw the name Maurice McCabe, did it ring any bells
8 with you at that time?

9 A. I can't recall whether it was Mr. McCabe's name or
10 Ms. D's name, but something clearly jogged my memory 11:31
11 that we had a previous file, I wanted a further check
12 taken, undertaken in relation to that and yes, there
13 was a previous file on Ms. D. I am not sure if that is
14 because of what was said in the body of their report in
15 relation to, that there was a previous criminal 11:31
16 investigation, I am not sure, I can't be clear on what
17 exactly I remembered.

18 281 Q. Now, I think you told the investigators that you were
19 married to a member of An Garda Síochána stationed in
20 Monaghan Garda station? 11:31

21 A. That's correct, yes.

22 282 Q. Were you aware at the time that there had been a major
23 controversy about Sergeant McCabe's allegations of poor
24 policing in the area?

25 A. I wasn't at that time. I don't know when exactly I 11:32
26 became aware of the controversy surrounding Mr. McCabe
27 or any of the issues in the media. It wouldn't have
28 been a news story I would be particularly interested
29 in. But I am not sure when, at what timeframe I became

1 aware of that, I don't know.

2 283 Q. well, it would have been a matter of interest to
3 somebody who was, so to speak, in a household where
4 there was a guard?

5 A. we weren't married in 2013. 11:32

6 284 Q. oh, I see. well, I don't want to -- were you close to
7 this gentleman?

8 A. Not at that time.

9 285 Q. oh, I see. And when did you marry him?

10 A. I married in 2015. 11:32

11 286 Q. I see. So you are saying that you were unaware of any
12 controversies involving Sergeant McCabe and the
13 Cavan-Monaghan division at the time?

14 A. I am not saying I was unaware of it, I can't remember
15 it specifically being a point of significance for me. 11:33
16 I can't recall if I was aware at that time or later on.
17 It's not something that stands out as significant in my
18 memory.

19 287 Q. You were dealing with a great number of guards from
20 time to time in different ways, isn't that right? 11:33

21 A. In my professional capacity, yes, yes.

22 288 Q. Yes. And you are aware that between 2008 and 2011
23 there had been a major inquiry within An Garda Síochána
24 in respect of Sergeant McCabe's complaints about
25 policing standards in Cavan-Monaghan, were you aware of 11:33
26 that?

27 A. I am aware of that now, I am not sure if I was aware of
28 that in 2013.

29 289 Q. The name didn't ring a bell at all with you?

1 A. AS I say, I can't be certain what jogged my memory. I
2 don't remember it being of serious significance to me.
3 I wasn't aware of the finer details of that until this
4 process really.

5 **CHAIRMAN:** Yes, and just the date I'm taking as when 11:34
6 Maurice McCabe became a figure in the public is
7 December 2013, early 2014, as a kind of a general
8 thing. If somebody wants to explain it to me in more
9 detail than that, I am happy to listen, but that's the
10 working date 11:34

11 **MR. MCDOWELL:** I had assumed that the witness was
12 married at the time to a member of An Garda Síochána.
13 I am now finding that the marriage is a later matter.

14 **CHAIRMAN:** Yes. And I note you didn't ask was it a
15 whirlwind romance, Mr. McDowell. 11:34

16 A. I certainly knew him in 2013, but we weren't residing
17 together or anything at that point.

18 290 Q. **MR. MCDOWELL:** The entire force was circularised by the
19 Chief Superintendent Rooney at the time saying that all
20 of Sergeant McCabe's allegations have been found to be 11:34
21 unfounded in 2011. I was going to put that to you, but
22 it's obvious you were not involved with a member of
23 Gardaí at the time?

24 A. I wasn't married to him, no.

25 291 Q. You weren't married to him. 11:35

26 A. No.

27 292 Q. Fair enough. Were you --

28 **CHAIRMAN:** Sorry, what you are talking about, the date
29 you mentioned there is the 9th of June 2011, chief

1 superintendent --

2 **MR. MCDOWELL:** The 4th of July 2011, a circular was
3 sent to every Garda station in the Cavan-Monaghan
4 division in relation to the Byrne/McGinn report, and
5 the circular said:

11:35

6
7 *"The investigation concluded there were no systemic*
8 *failures identified in the management and*
9 *administration of the Bailieboro garda district. A*
10 *number of minor procedural issues were identified. On*
11 *further investigation at local level no evidence was*
12 *found to substantiate the alleged breach of procedures.*
13 *The Assistant Commissioner further concluded there was*
14 *no criminal conduct identified on the part of any*
15 *member of the district force."*

11:35

11:36

16
17 And then Superintendent Rooney said:

18
19 *"I would like to congratulate all members who served in*
20 *Bailieboro district during the period in question."*

11:36

21
22 So he was congratulating everybody in the Bailieboro
23 district in the period in question.

24
25 *"I particularly wish to thank Sergeant Gavigan who*
26 *provided leadership, enthusiasm and commitment in*
27 *steering the station party through the crisis that had*
28 *occurred."*

11:36

29 **MR. O'HIGGINS:** Chairman, I am just wondering what

1 relevance has this? It doesn't appear to be relevant
2 to this witness.

3 **CHAIRMAN:** Oh I think it is a lot, I think it is very
4 relevant.

5 293 Q. **MR. MCDOWELL:** "-- through the crisis that had
6 occurred --" Sorry.

11:36

7 **CHAIRMAN:** Appreciating your point, Mr. O'Higgins. I
8 think, Ms. McGlone, you are probably a wee bit at sea
9 at this point. But I think what you are being asked
10 about is how it started here, did the name Maurice
11 McCabe mean anything to you? I then intervened,
12 perhaps unwisely, it's usually unwise, to say it was
13 late 2013/beginning of 2014 that Maurice McCabe became
14 a name in the public arena, but there had already been
15 an investigation, and as I understand it, the
16 Byrne/McGinn report had already been made, it was then
17 referred to Assistant Commissioner Rooney, and then he
18 found there was nothing wrong with the Byrne/McGinn
19 report, and then on the 9th June 2011 there was the
20 final outcome of the 624 Pulse incidents, according to
21 Commissioner Rooney, and then on the 4th of July 2011
22 there was this letter that was sent around to members
23 of the Gardaí. But this is a long time prior to -- and
24 I take it you were not involved in Garda affairs at
25 this time?

11:36

11:37

11:37

11:37

26 A. Absolutely not, no.

27 **CHAIRMAN:** And despite being married to a garda, you
28 are married since 2015 and is this all a mystery to
29 you?

1 A. That's correct. Yes, I didn't even know my husband in
2 2011.

3 294 Q. **MR. MCDOWELL:** The last letter of this circular says:
4
5 *"I hope that the members and their families can put 11:38*
6 *this difficult period behind them and continue to*
7 *serve the public and their colleagues in an efficient*
8 *and --"*

9 **MR. O'HIGGINS:** Chairman, if the witness has indicated
10 it is a mystery to her, with respect, I suspect that 11:38
11 mean its relevance has come to an end.

12 **CHAIRMAN:** Yes. well, I think that --

13 **MR. MCDOWELL:** Let me just ask my question.

14 295 Q. You were liaising with members of An Garda Síochána
15 during this period, isn't that right? 11:38

16 A. That's correct, yes. From 2010, yes.

17 296 Q. And are you saying you were unaware that this
18 controversy was being dealt with within the force in
19 the Cavan-Monaghan division?

20 A. Yes, I was, yes. 11:38

21 297 Q. You have a formal liaison role within An Garda
22 Síochána?

23 A. I do now, and I did then in a different type of role.
24 But yes, I did. Yes.

25 298 Q. And you are saying that none of this rings a bell or 11:38
26 rang a bell?

27 A. It definitely wasn't discussed at any liaison meetings.
28 We were there primarily to discuss specific cases. I
29 wouldn't have discussed general issues in relation to

1 304 Q. *"Is the child or the family known to the --"* Yes, it's
2 a child welfare protection form, isn't it?
3 A. It's a child welfare protection intake record, yes.
4 305 Q. Yes. And it starts off with *"Details of Child"*?
5 A. Yes, and -- 11:41
6 306 Q. And then *"Adult Maurice McCabe"* is there?
7 A. Yes. As explained, there was no designated form at
8 that point for adults. We used the same form, and
9 wrote *"Adult"* on it when it was in relation to an adult
10 of concern. 11:42
11 307 Q. But you knew on the next working day, if this was in
12 fact signed on the Friday by you, that Ms. D was known
13 to your department and there was a full file in
14 relation to this complaint, isn't that right?
15 A. Yes, I knew that on the 12th, yes. 11:42
16 308 Q. And you knew that there was a child, a CSA file
17 somewhere else dealing with the matter?
18 A. Yes.
19 309 Q. why didn't you go back to that box and say this
20 incident and the alleged victim are well-known to this 11:42
21 service --
22 A. I suppose --
23 310 Q. -- and the matter was considered in 2006 and 2007?
24 A. Because this intake record, it was in relation to
25 Mr. McCabe. This intake record is not in relation to 11:43
26 Ms. D. Ms. D's file is separate. This was in relation
27 to generating a file on Mr. McCabe. So at that point
28 he wasn't previously known, as in, there was no
29 existing file on him, so the purpose of this intake

1 record was to open a file on Mr. McCabe.

2 311 Q. I see. So, it's an inappropriate form but when you
3 said -- when you wrote down, I just want to be clear
4 about this, when you wrote down "*Query previously*
5 *known?*", you weren't talking about Ms. D, is that the 11:43
6 point?

7 A. I am not sure if I was talking about -- as I say, I
8 can't recall whether it was Ms. D or Mr. McCabe.
9 Something jogged that we had previous involvement with
10 this case, so I am not sure which I was referring to 11:43
11 there. But this form is relation to Mr. McCabe. We
12 don't have a form like this on Ms. D because Ms. D is
13 also an adult, she is not a child either at this point.

14 312 Q. But I mean, you are aware on the following working day
15 that they had closed down this file? 11:44

16 A. They had closed Ms. D's file.

17 313 Q. Yes.

18 A. Yes.

19 314 Q. In respect of the abuse that we are dealing with here,
20 isn't that right? 11:44

21 A. In respect of the ongoing child protection role with
22 Ms. D.

23 315 Q. Yes.

24 A. Yes.

25 316 Q. And you are aware that Sergeant McCabe was the alleged 11:44
26 perpetrator in respect of the file that was closed?

27 A. Yes. I suppose just to clarify, that is how I
28 identified the outstanding pieces of work in relation
29 to Mr. McCabe from a social work point of view, the

1 work that I have already explained hadn't been
2 completed and that is why this file was opened.
3 317 Q. Yes. Because Ms. Rhona Murphy had written to Mary
4 O'Reilly in October 2007 and said:

11:45

5
6 *"I am writing to you regarding the above-named."*

7
8 which was Maurice McCabe.

9
10 *"I have recently closed the case regarding Ms. D, who*
11 *has made an allegation of inappropriate touching*
12 *against Mr. McCabe."*

11:45

13
14 You knew, therefore, that this matter had been brought
15 to a close.

11:45

16 A. I knew that Ms. D's had been brought to a close. I
17 also knew that Ms. Murphy was concerned about that,
18 hence she wrote the letter to her superior outlining
19 that certain actions hadn't been followed or were
20 outstanding.

11:45

21 318 Q. And are we to take it that apart from doing what you do
22 with this and writing out the manuscript letter for
23 typing up, you had no further involvement in this
24 matter at all?

25 A. That's correct.

11:45

26 319 Q. Can I ask you in relation to the Laura Brophy formal
27 notification, retrospective notification document,
28 which contained the digital abuse reference, would it
29 have been anybody's duty in your section to read it?

1 A. Had it come in -- I suppose, it's unfortunate the
2 timing of it that I didn't see it afterwards, after I
3 had held the referral meeting and reviewed the file.
4 Had it come in on the same day of the intake record or
5 it had been addressed to me specifically or had I any 11:46
6 sight of it, yes, of course, I would have read it at
7 that point.

8 320 Q. I am puzzled by this, because you are telling us that
9 on the Monday, the 12th August you are in a state of
10 doubt as to whether this is the same allegation or a 11:46
11 new allegation, and that you wanted to clarify that
12 with Superintendent Cunningham?

13 A. Yes, I wanted confirmation or clarity, yes.

14 321 Q. And on the same day your section receives a written
15 account from the counsellor of the allegation in 11:47
16 question, isn't that right?

17 A. Yes. It seems from this process, yes, that a form was
18 received to our office on that day, again I have never
19 seen it.

20 322 Q. I am mystified how, if you wanted -- if it was in your 11:47
21 mind to follow up the comparison of the two allegations
22 to see was it the same allegation, why you wouldn't
23 take the time to check on the written report, just to
24 check that it is -- that the details that you could put
25 to Superintendent Cunningham did concern the same 11:47
26 allegation?

27 A. Well, I suppose I had never seen the written report.
28 Had I received it I am sure I would have read it.

29 323 Q. Who did receive this written report?

1 A. It came in the post. The post is opened by admin. I
2 am not sure which administrator opened the post that
3 particular day. The post generally doesn't arrive
4 until 9:30-10:00, it wouldn't be opened until sometime
5 after that and distributed then into pigeonholes 11:48
6 for follow-up or attention, or placed on a file. At
7 this point it seems the file wasn't even created until
8 the 15th, so it's likely it just went straight on to
9 the file at this point.

10 324 Q. Sorry, where was it between the 12th and the 15th? 11:48

11 A. I don't know. I am assuming it was with the bundle for
12 filing, but I am not sure. I can't be certain on that,
13 I am only speculating at this point.

14 325 Q. But was it nobody's duties to bring it to yourself or
15 Ms. Tinnelly and say 'here is what Laura Brophy has 11:48
16 actually set out as the substance of the retrospective
17 notification'?

18 A. All I can assume is that when it came in it was
19 presumed to be the same or a duplicate as nobody would
20 imagine the information would be different and it was 11:48
21 just placed on the file. I can't give a reason for
22 that.

23 326 Q. It was presumed to be the same?

24 A. I am assuming so. I can't -- I didn't see it so I
25 can't answer that question. 11:49

26 327 Q. By a person who you presume made that presumption, is
27 that it?

28 A. You see, I don't know, I can't answer that.

29 328 Q. I see. And as far as you are concerned, during the

1 entire time that you were in that division, it was
2 nobody's duty to read what Ms. Brophy had sent in?

3 A. Well, I suppose it was nobody's duty to read that
4 specifically, it was on the file. If that is what the
5 information is, I suppose there would be no reason to 11:49
6 think it was any different at that point, that is all I
7 can say. I had never reviewed the file again.

8 329 Q. I see. When you wrote to Inspector Cunningham or
9 Superintendent Cunningham, you wrote him a private and
10 confidential letter, did it strike you as strange that 11:49
11 you got no reply at all? It was an important and
12 confidential matter.

13 A. I suppose not strange, particularly. I don't recall, I
14 suppose -- I assumed obviously I would get a response
15 or I wouldn't have written a letter. Perhaps he was 11:50
16 busy, perhaps -- I don't know. Again, I was so busy
17 with other cases that I didn't follow up on that so I
18 am not sure what I thought about it at the time. I
19 probably would have expected a response, yes.

20 330 Q. Well, I mean, you weren't asking him to do anything 11:50
21 except to contact you, isn't that right, by phone?

22 A. That's right, I had asked for a meeting yes, or to
23 contact me by phone.

24 331 Q. Yes. So I mean you weren't imposing any workload on
25 him; you were just merely asking him to give you a 11:50
26 couple of minutes of his time, isn't that right?

27 A. Well, yes, I asked for a meeting or to contact me by
28 phone, yes.

29 332 Q. And you addressed him it to him as private and

1 confidential, that this was not just ordinary
2 run-of-the-mill postage he was getting?

3 A. No. Well, "*Private and Confidential*" is a stamp that
4 goes out on all of our correspondence.

5 333 Q. I see. Well, it concerned a member of An Garda 11:50
6 Síochána, and you were being sensitive by using just
7 his initials in the letter in case people who shouldn't
8 see it, might see it, is that right?

9 A. Well, yes, that was my intention, yes.

10 334 Q. So it wasn't -- it wasn't as run-of-the-mill 11:51
11 correspondence, this was something you were asking for
12 a couple of minutes of his time so that you could
13 ascertain is what is on my referral form the same
14 allegation as was investigated by him?

15 A. Yes. 11:51

16 335 Q. And it was your intention, if he answered yes, it is
17 the same, to have no further involvement with the
18 Gardaí, is that right?

19 A. Yes, I would also have asked in relation to
20 Mr. McCabe's response and to get information in 11:51
21 relation to that at the time. But yes, I suppose at
22 that point we would have considered what action we
23 needed to take following that.

24 336 Q. But you have told us, I mean we needn't go back over
25 it, that you would have brought it no further with the 11:51
26 Gardaí?

27 A. No. Unless something new arose out of that meeting
28 that was of a concern. But no, I don't imagine that it
29 was -- if that specific allegation had been

1 investigated previously I wouldn't have re-notified
2 that specific allegation again.

3 337 Q. well, he apparently was not responding to your letter.
4 Did you make any attempts to telephone him?
5 A. I didn't. As I have stated in my earlier evidence, I 11:52
6 didn't follow up in relation to that.

7 338 Q. And again, is this because you had more serious things
8 to do?
9 A. Unfortunately, yes.

10 339 Q. Now, is it the case that because of the condition that 11:52
11 you left this file, that at some point thereafter it
12 was going to be handed to somebody, allocated to
13 somebody with a direction to notify An Garda Síochána?
14 A. Yes, I have acknowledged that. However, I have also
15 said, the lack of response from An Garda Síochána, I 11:52
16 can see -- I probably myself may have notified it at
17 that point as well, I am not sure, but I could see
18 clearly why notification was completed in that there
19 was no response to my earlier letter.

20 340 Q. I see. Thank you, Ms. McGlone. 11:53
21 A. Thank you.
22
23 **END OF CROSS-EXAMINATION BY MR. MCDOWELL**
24
25 **CHAIRMAN:** You wanted the Garda to go first, is that 11:53
26 right? Mr. O'Higgins, did you want to ask any
27 questions?
28 **MR. O'HIGGINS:** Yes, Chairman. Thank you.
29

1 MS. MCGLONE WAS CROSS-EXAMINED BY MR. O'HIGGINS

2 AS FOLLOWS:

3

4 341 Q. Ms. McGlone, my name is Mícheál O'Higgins. I represent
5 the Commissioner of An Garda Síochána and certain other 11:53
6 senior gardaí.

7 A. Yes.

8 342 Q. Can I ask you to start, first of all, with document
9 229, please. Do you have that?

10 A. Yes, I do. 11:54

11 343 Q. This is a letter from -- jointly signed by Emer O'Neill
12 and Orla Curran, respectively, senior clinical
13 psychologist, and is it assistant senior social work
14 practitioner, is that it?

15 A. Yes. 11:54

16 344 Q. And it's addressed to Inspector Noel Cunningham and it
17 seeks -- it indicates that it's a request to Inspector
18 Cunningham to forward a copy of the statement of Ms. D,
19 all right?

20 A. Yes, it appears so, yes. 11:54

21 345 Q. And this is a long time ago now. It is a document
22 dated 8th January 2007, do you see that on the top
23 right-hand corner?

24 A. Yes, I can see that, yes.

25 346 Q. So this is in the context of a request being made to 11:54
26 Inspector Cunningham by -- those two persons, Emer
27 O'Neill and Orla Curran, are they HSE --

28 A. They would have been at that time, yes. Emer O'Neill
29 is a psychologist and Orla doesn't work in our service

1 any longer but she was there at that time, yes.

2 347 Q. So this is your service writing to the Guards?

3 A. It's a part of our service that wasn't there in 2013,
4 but yes, it was there in 2007.

5 348 Q. Yes. And if one looks over the page then to page 230 11:55
6 and 231, it is clear from this that -- 230 is a consent
7 that has been obtained, I think, from the complainant
8 for the Garda statement to be released, isn't that
9 right?

10 A. Yes, it appears so, yes. 11:55

11 349 Q. And that was something that was enclosed with Emer
12 O'Neill and Orla Curran's letter to the Inspector,
13 isn't that right?

14 A. I can see that here, yes.

15 350 Q. And over the page then, on page 231 -- sorry, 235, 11:55
16 excuse me, a few pages on, we have Inspector
17 Cunningham's response to Orla Curran dated 24th of
18 January 2007. Do you see that?

19 A. I can, yes.

20 351 Q. And that indicates that "*In relation to your 11:56
21 correspondence on Ms. D, please find attached statement
22 as requested.*" So we can take it from that, can't we,
23 that An Garda Síochána was requested in 2007, the
24 beginning of 2007, January, to provide Ms. D's
25 statement, and Superintendent - I think then 11:56
26 Inspector - Cunningham, acceded to that request and
27 provided the statement, isn't that so?

28 A. He provided to the CSA team, yes, in 2007.

29 352 Q. Right. And I think there has already been evidence

1 heard to indicate that, in fact, your department, or
2 perhaps some other part of the HSE, obtained the
3 statement I think from Ms. D herself at a later date.
4 Do you know about that?

5 A. I don't know about that, no. 11:57

6 353 Q. All right. But in any event, we are clear that as of
7 January '07 your department had the statement of Ms. D?
8 A. Yes. I suppose just to clarify, yes, I suppose, in
9 broad terms, the department had it. It wasn't placed
10 on Ms. D's social work file and I didn't have access to 11:57
11 it at the point in which I requested the meeting with
12 Superintendent Cunningham, but I do acknowledge that
13 the service -- an aspect of the service at that point
14 did have a statement, yes.

15 354 Q. Well, can you assist me with that. Where would that 11:57
16 have resided then? When that statement came in and
17 that step was taken by your two colleagues, where would
18 that have -- where -- where would your colleagues'
19 letters, first of all, have resided - what file?

20 A. They would have resided on Ms. D's CSA, which is Child 11:57
21 Sexual Abuse Assessment Team file, and that is located
22 in Monaghan. It was a separate -- I suppose that
23 service, I am not sure if it still existed in 2013. It
24 certainly didn't exist for a period of time after that.
25 I am not sure exactly when that service ceased at that 11:58
26 point, but in 2007 it was clearly in existence, but in
27 2013 the files would have been held, the closed files,
28 in a separate department in Monaghan.

29 355 Q. When that letter was sent and when that response came

1 in enclosing the statement, would that have been
2 entered on a computer somewhere in the land of HSE?

3 A. No, no, it wouldn't have been.

4 356 Q. So there would have been a paper file, would there?

5 A. A paper file, yes. 11:58

6 357 Q. Right.

7 A. Held with the psychologist at the time.

8 358 Q. Now, in accordance with protocol, is it my -- you might
9 correct my understanding if this is incorrect, and
10 indeed I understand this to have been the evidence 11:58
11 already heard, the protocol was that a statement of a
12 complainant might be obtained so as to obviate the
13 necessity for counsellors, or anybody else in HSE, to
14 canvass with the complainant a description of alleged
15 abuse? 11:59

16 A. Yes, my understanding was at that time in 2007, again I
17 wasn't involved in this area of work at that time, but
18 my understanding is that, yes, they could get access to
19 the statement to, I suppose, save a child victim from
20 going through the process of telling the allegation 11:59
21 again to another person.

22 359 Q. Yes. So insofar as that might have been an objective,
23 the fact that the HSE now have that, that would have
24 obviated the necessity for that, isn't that so?

25 A. At that point, yes. In 2007, yes. 11:59

26 360 Q. Could I ask you, please, to turn to page 1331. And
27 this is the -- this is your letter dated 15th August
28 2013, again to Superintendent Noel Cunningham?

29 A. Yes, that's correct.

1 361 Q. Superintendent Cunningham, you are aware, aren't you,
2 is the member of An Garda Síochána who recommended to
3 the DPP that there should be no prosecution of Maurice
4 McCabe?

5 A. I suppose, at that point, all I was aware of was that 12:00
6 there was no prosecution. I wasn't sure what the
7 Garda's recommendation at that point would have been.
8 I am aware the DPP had decided no prosecution.

9 362 Q. Well, were you aware, broadly speaking, that on the 12:00
10 recommendation -- the DPP followed the recommendation
11 of Noel Cunningham and directed no prosecution?

12 A. I wouldn't have known, I suppose, the ins and outs of
13 that. I would have known that the DPP had recommended
14 no prosecution from Ms. D's file, but I didn't know
15 whether that was a Garda recommendation or a decision 12:00
16 taken by the DPP. I wasn't aware of the details of the
17 investigation or the allegations at that point.

18 363 Q. Now, you have told us already, I think, that though
19 dated, on its face, 15th August 2013, this, in fact,
20 was the typed version of a letter handwritten by you -- 12:01
21 or prepared and drafted by you three days earlier?

22 A. As I said earlier, I can't remember exactly, but yes,
23 my understanding is that I would have handwritten it on
24 the same day, which would have been the 12th.

25 364 Q. Right. And we will come back to the sequencing of that 12:01
26 a little bit later on.

27 A. Okay.

28 365 Q. Just looking at the document then, it's headed "*Private*
29 *and Confidential*". You'd agree with me, would you,

1 that that wouldn't be terribly unusual; a letter from
2 Tusla or the HSE would ordinarily be marked "Private
3 and Confidential"?

4 A. Yes. As I said earlier, it goes out nearly on almost
5 all letters, yes. 12:01

6 366 Q. Right. But nonetheless, it being marked "*Private and*
7 "*Confidential*" would, you'd agree with me, give rise to
8 the possibility, indeed the probability, that it would
9 be only sent -- it would be left for opening, as it
10 were, by the recipient and not opened by somebody else 12:01
11 other than the named addressee?

12 A. I am not sure. I know, in our office, often post can
13 be opened by the team -- you know, your administrator
14 if you are not there. And I am not sure of the process
15 within An Garda Síochána for that. 12:02

16 **CHAIRMAN:** Mr. O'Higgins, can I just clarify the
17 instruction -- your instructions in relation to this,
18 at this point.

19 **MR. O'HIGGINS:** Yes, sir.

20 **CHAIRMAN:** Is it your instruction is the case you are 12:02
21 making, that if something comes from a State agency to
22 the Garda Síochána marked "Private and Confidential" to
23 Inspector B. O'Neill, that only Inspector B. O'Neill
24 will open that, and if Inspector B. O'Neill is, for
25 instance, ill for two years, it won't be opened for two 12:02
26 years?

27 **MR. O'HIGGINS:** No, Chairman, it isn't. What I am
28 seeking to elicit from the witness, if I may, that what
29 was her intention in addressing it to a named

1 addressee, no more than that.

2 **CHAIRMAN:** No, but -- and what is the position; in the
3 event that someone has an official position within the
4 Garda, for instance, is Chief Superintendent O'Toole in
5 a particular place and a letter comes marked "Private 12:02
6 and Confidential" and the chief superintendent is away
7 or is ill, will somebody else open that letter and
8 attend to it?

9 **MR. O'HIGGINS:** well, in this particular case it is
10 acknowledged by Noel Cunningham that when he came back 12:03
11 from leave, he did see the letter, so there is no
12 difficulty in relation to that whatsoever.

13 **CHAIRMAN:** No, that is not the question I asked you,
14 Mr. O'Higgins. The question is, is it the position
15 that if a person is written to as superintendent as 12:03
16 opposed to Mary O'Neill, such-and-such a Garda station,
17 "Private and Confidential, Personal," that, I presume,
18 would not be opened, but if it is written "Chief
19 Superintendent Mary O'Neill, Private and Confidential",
20 I take it it is the Garda practice that will be opened 12:03
21 and will be looked at because it is a communication to
22 that person of that rank?

23 **MR. O'HIGGINS:** well, I can indicate to you, Chairman,
24 that, in this particular case, it is not at all being
25 suggested that it wasn't opened. When the man returned 12:03
26 from leave, it was opened and he read the document.

27 **CHAIRMAN:** well, I thought it was opened before he came
28 back from leave.

29 **MR. O'HIGGINS:** Not by him. He saw it when he returned

1 from leave.

2 **CHAIRMAN:** Mr. O'Higgins, really and truly, it's hard
3 to imagine if he is in Spain, he is opening a letter in
4 Monaghan.

5 **MR. O'HIGGINS:** Well, it's my understanding, Chairman, 12:04
6 that he opened the letter when he returned from leave
7 in September.

8 **CHAIRMAN:** And nobody had opened it before that?

9 **MR. O'HIGGINS:** No.

10 **CHAIRMAN:** And then your instructions as to why he 12:04
11 didn't actually answer it, September, October,
12 November, December, January, when this witness was
13 actually still up the road, no doubt we will come to
14 that.

15 **MR. O'HIGGINS:** Yes, certainly, yes. Chairman, you 12:04
16 will appreciate, we don't have the facility of making
17 an opening statement, nor are we calling any evidence
18 at this point, but we are entirely happy to deal with
19 that if you wish --

20 **CHAIRMAN:** Mr. O'Higgins, maybe I am being difficult, I 12:04
21 don't know, other people can be the judge of that, but
22 my normal practice is, in the event that there is an
23 issue, and there is an issue here, the issue is, a
24 letter was written saying 'I want to meet you, I want
25 to talk to you about this and about Maurice McCabe', 12:04
26 that is written to a chief superintendent. Now, I
27 would need to write down your instructions, in other
28 words, it could be your case as to why there was no
29 response to that letter, and that is what I am really

1 interested in. And there is a period of six -- five
2 months, I beg your pardon, when the witness is up the
3 road.

4 **MR. O'HIGGINS:** well, Chairman, the Tribunal will be
5 aware of the statement of Superintendent Noel
6 Cunningham, in which he indicates and makes no case
7 other than he opened the letter, and he indicates that
8 he returned from leave in September 2013 and his father
9 had died in October and he was again absent from his
10 office. It was in these circumstances that he did not
11 respond to the correspondence. 12:05

12 **CHAIRMAN:** Mr. O'Higgins, we have all had dead
13 relatives, all of us. So the response to why the
14 letter wasn't answered is what?

15 **MR. O'HIGGINS:** well, the witness -- Noel Cunningham,
16 who was the man in charge of the investigation back in
17 2007, divined from this letter, correctly, in
18 accordance with the position of the sender of the
19 letter, that this was not -- this related to the same
20 matter that had been the subject of a concluded
21 investigation back in 2007, but that doesn't excuse the
22 non-answering of the letter, and that is acknowledged.
23 But it was in that context that it was simply married
24 up with the remainder of the file he had, and, in that
25 context, when he went on leave due to his father's
26 unfortunate passing, he didn't respond to the
27 communication. 12:06

28 **CHAIRMAN:** I don't see why his father's death is being
29 brought into the matter, I really don't. But, I mean,

1 Mr. O'Higgins, those are your instructions, and it's
2 helpful to have clarified those instructions, and thank
3 you.

4 **MR. O'HIGGINS:** Chairman, it's dealt with on page 1691
5 of his statement and he sets that out in a degree of 12:06
6 context.

7 367 Q. Could I ask you just to return then to the contents of
8 the letter --

9 A. Yes.

10 368 Q. -- Ms. McGlone. You see there it indicates: 12:07
11 "*Health Service Executive Child and Family Services*
12 *have received a recent referral from Rian, a*
13 *therapeutic counselling service for adult survivors of*
14 *childhood abuse.*"

15 And then it says: "*The referral states that Ms. D, now 12:07*
16 *aged 21, has discussed during counselling sessions that*
17 *she was sexually abused during her childhood by an*
18 *adult, M. McC. I note from the social work file that*
19 *you conducted a criminal investigation into these*
20 *allegations.*" 12:07

21 Do you see that?

22 A. Yes, I do, yes.

23 369 Q. I think you have told the Tribunal already that when
24 you sent this communication, you were working -- you
25 were not working off the incorrect information; you 12:07
26 were working on the basis this was indeed -- you were
27 working on the basis of the correct description of the
28 alleged abuse, isn't that so?

29 A. That's correct, yes.

1 370 Q. And there was no indication of an elevation of the
2 description of the alleged abuse from this letter?
3 A. No, that's correct.

4 371 Q. And you didn't intend there to be an indication of an
5 elevation because you didn't know about it? 12:08
6 A. That's correct.

7 372 Q. And there is nothing to indicate a change of any sort
8 in the nature of the allegation?
9 A. No, not from my letter, no.

10 373 Q. In fact, it equated with, so far as your letter 12:08
11 indicates on its face, it -- this letter, on its face,
12 indicates that the allegations the subject of the
13 letter were one and the same as the allegations the
14 subject of the criminal investigation that had
15 concluded in 2007, isn't that so? 12:08
16 A. Yes, that is what I have clarified earlier, yes.

17 374 Q. Now, I think you have already acknowledged that this
18 letter is not a notification of suspected child abuse?
19 A. No, it's not.

20 375 Q. It wasn't written as such, nor was it intended to be 12:08
21 read in that way?
22 A. No.

23 376 Q. And you have told us that when you sent the letter,
24 afterwards there was no follow-up phone call by you or
25 by anybody on your behalf, isn't that so? 12:09
26 A. That's correct.

27 377 Q. When did you leave the section?
28 A. At the end of January 2014.

29 378 Q. And do you have any explanation for the non-follow-up

1 with the phone call in that period, August to January?
2 A. As I said earlier, just in relation to the demands of
3 the other cases awaiting allocation, the other cases
4 that were allocated that I was responsible for and I
5 suppose the other priorities of the service at that 12:09
6 time.

7 **CHAIRMAN:** Mr. O'Higgins, is the Garda -- are the Garda
8 making the case that if someone writes to a chief
9 superintendent and said, 'I would appreciate if you
10 could contact me to arrange a date in Monaghan that is 12:09
11 suitable for you, I can be contacted at', mobile number
12 given, 'or in the office, Cavan', number given, 'or in
13 Monaghan', number given, 'I would like to meet with you
14 to discuss the case prior to making any contact with
15 the alleged perpetrator, many thanks for your 12:10
16 assistance', that this witness is to be blamed for not
17 actually following up a letter that wasn't answered
18 over a period of five months and no contact is made,
19 notwithstanding what I said, is that the case you are
20 making? 12:10

21 **MR. O'HIGGINS:** Chairman, it's a matter of context. We
22 are seeking to put forward, to assist the Tribunal as
23 best we can with the establishment of the facts. The
24 facts here are that, and it's acknowledged by the
25 superintendent, and in his statement he makes it 12:10
26 perfectly plain, that he did get the letter and it
27 was -- everybody agrees it was not responded to. It
28 will be a matter for the Tribunal to assess whose fault
29 was that and if it had any consequences, and I will be

1 coming to that.

2 **CHAIRMAN:** I can say now as, hopefully, a reasonable
3 person, that I am not impressed with the notion that if
4 someone sends a letter like this and gives three
5 separate phone numbers and has an address in terms of 12:11
6 post as well, that the obligation is placed on her to
7 write yet another letter, to make yet a further phone
8 call, when the contact is made with a superintendent in
9 an official capacity.

10 **MR. O'HIGGINS:** Save, Chairman, I do say, with respect, 12:11
11 that it is relevant to establish if, in fact, there was
12 no follow-up, which would of course be relevant to the
13 level of blame, if blame is appropriate at all, to be
14 attached to the failure to respond. I am merely
15 seeking to establish that. 12:11

16 **CHAIRMAN:** Sometimes there is a case to be made,
17 Mr. O'Higgins. I appreciate you have case a case to be
18 made, but I think it's a difficult case to make.

19 379 Q. **MR. O'HIGGINS:** Now, can I ask you then, continuing
20 with the letter, Ms. McGlone, you'd accept, wouldn't 12:11
21 you, that it's no part of Inspector Cunningham's
22 responsibility that the alleged perpetrator had not
23 been met with the HSE?

24 A. Oh, absolutely not, no.

25 380 Q. And would it be fair to say that was certainly, in 12:12
26 part, the focus of the letter?

27 A. Yes, I suppose the focus of my letter was to establish
28 first, as I have said, in relation to the actual
29 investigation that was carried out, what exactly was

1 the allegation that was investigated, what was the
2 outcome of that, other than DPP; you know, were the
3 Gardaí recommending prosecution, what was Mr. McCabe's
4 response to that allegation, but also for me to, I
5 suppose, inform what further steps we had to take as a 12:12
6 service in relation to Mr. McCabe.

7 381 Q. The letter doesn't indicate, you'd agree with me,
8 doesn't indicate that you were looking for Maurice
9 McCabe's contact details or telephone number?

10 A. No, that's correct. 12:12

11 382 Q. Now, there is no mention in the letter, you'd accept,
12 that a decision has been taken to open a McCabe file,
13 as it were?

14 A. It doesn't say that in the referral, but it clearly
15 states that I had identified there was a gap in the 12:13
16 service, that we hadn't -- they hadn't met with him at
17 that time, but no, I didn't specify a file in that
18 letter.

19 383 Q. But, with respect, how could the recipient, how could
20 the intended recipient know whether or not a Maurice 12:13
21 McCabe file has been opened up?

22 A. Well, I did say I wanted to discuss the case prior to
23 making contact, so I did indicate that we were going to
24 have some involvement with the case further at that
25 point, is all I can say to that. 12:13

26 384 Q. At this point in time, the McCabe file has opened,
27 isn't that so?

28 A. It opened that week, yes. The exact date I am not
29 sure, but yes, it opened at this point, yes.

1 385 Q. So insofar as it might be suggested that was a lighting
2 of a fuse, that fuse had already been lit prior to this
3 letter being sent?

4 A. I suppose as I clarified earlier, you know, we have --
5 there was two roles here. Yes, a response from 12:13
6 Superintendent Cunningham may have negated a further
7 guard notification, but I had still identified an
8 outstanding social work task here, so the file would
9 have been opened in relation to that task anyway.

10 386 Q. Well, can I ask you that, because due to the, I 12:14
11 suppose, concurrence of circumstances, pretty well at
12 the time you had prepared this letter for sending out
13 but unbeknownst to you when writing the letter, there
14 was received in your department, was there not, the
15 incorrect notification from Laura Brophy, isn't that 12:14
16 right?

17 A. That's correct, yes.

18 387 Q. In fact, on the same day, the 12th of August 2013, when
19 you prepared your draft?

20 A. Yes, it appears so now, yes. 12:14

21 388 Q. So, insofar as there has been an attempt to suggest
22 that the history-altering moment was the non-responding
23 to this letter, which failure obviously occurred, it
24 wasn't responded to and everybody is agreed about that,
25 but insofar as it's suggested that this altered 12:15
26 history, can I suggest to you that, in fact, the 12th
27 of August 2013 letter containing the incorrect
28 information from Laura Brophy had hit the file but its
29 consequences were yet to start ticking, isn't that so?

1 A. Yes, as I say, I hadn't had sight of it, but, yes, it
2 appears that it was in the department, and yes, that
3 information was there, it appears now.

4 389 Q. So, in fact, even if Noel Cunningham had done what one
5 might say he ought to have done and picked up the 12:15
6 phone --

7 **CHAIRMAN:** Sorry, can I just stop you there. Are you
8 saying that there is a possibility that he perhaps was
9 not duty-bound to answer this letter?

10 **MR. O'HIGGINS:** No, it's no part of our case that it 12:15
11 wasn't anything other than a failure to respond to the
12 request to meet. That is not part of our case,
13 Chairman, nor have I sought to make that part of our --

14 **CHAIRMAN:** But what you have said was, 'what one might
15 say he ought to have done'. I mean, is it the Garda 12:16
16 case that the Gardaí are not obliged to answer this
17 kind of official letter?

18 **MR. O'HIGGINS:** Not remotely. I am seeking to,
19 Chairman, with respect, deal with a suggestion that
20 Mr. McDowell has sought to create, and the witness has 12:16
21 perhaps sought to agree with, that, somehow, history
22 would have been different if there had been a
23 phone-call response, and I am seeking to tease out with
24 the witness, in fact, is that fair or reasonable. That
25 is the purpose of this line of questioning. 12:16
26 **CHAIRMAN:** You know, I do see that.

27 390 Q. **MR. O'HIGGINS:** So just returning to that, then,
28 Ms. McGlone.

29 A. Yes.

1 391 Q. You'd agree with me that because you hadn't, when
2 preparing the letter, seen Laura Brophy's incorrect
3 notification, that incorrect notification was yet to
4 take its course, isn't that right?

5 A. That's correct, yes. 12:16

6 392 Q. And even if the man had phoned you back, that
7 notification and its consequences were still to happen,
8 isn't that right?

9 A. Again, it's a hypothetical situation. He didn't
10 contact me back. I imagine if a meeting was arranged, 12:17
11 I would have took the file and at that point it may
12 have been transparent that there was material on the
13 file that was materially different to what I had
14 thought was on the file.

15 393 Q. All right. 12:17

16 A. But I can't -- again it's a hypothetical situation.

17 394 Q. Well, can I ask you this: insofar as -- and perhaps
18 it's idle to engage in speculation, but can I ask you
19 to deal with this: who, then, looked at the
20 notification, the incorrect notification from Laura 12:17
21 Brophy?

22 A. My understanding - again, it wasn't during my
23 involvement - my understanding is, is when the duty
24 social worker in 2014 was the first person then to
25 respond in relation to that matter. 12:17

26 395 Q. Right. Is there any indication on the file, that you
27 are aware of, that, on that person looking at the
28 notification, that person made contact or sought to
29 make contact with Noel Cunningham or with any guard?

1 A. Again, from looking at the file for this purpose, I
2 understand the guard notification was initiated at that
3 point, but I am open to clarification on that. Again,
4 it was after my time involved in the case.

5 396 Q. But in other words, what I am seeking to elicit from 12:18
6 you, we are agreed, aren't we, that there was, and it's
7 a matter for the Chairman as to whether this is
8 relevant or not, but, in fact, there was no attempt to
9 recontact Noel Cunningham upon people in the HSE
10 heeding and seeing for the first time Laura Brophy's 12:18
11 incorrect communication?

12 A. Yes, that is my understanding. I have acknowledged
13 there was no further follow-up with Noel Cunningham in
14 relation to this.

15 397 Q. We are agreed, aren't we, that ultimately when the 12:18
16 Laura Brophy communication took its course and
17 consequences which flowed occurred, a so-called Barr
18 letter was sent to Maurice McCabe, isn't that right?

19 A. Again, that's after my time of involvement, but yes, I
20 understand a letter was sent for the disclosure. I 12:19
21 went through the files, and yes, I understand that.

22 398 Q. And we are agreed, aren't we, that that process
23 involving the sender of a Barr letter, the Gardaí would
24 have no role in that process, isn't that so?

25 A. Generally not, no. 12:19

26 **CHAIRMAN:** No, I think the answer would be never.

27 A. No, I suppose -- I am not actually -- maybe the detail
28 of that letter --

29 **CHAIRMAN:** I can't conceive that before sending a

1 letter to somebody saying 'by the way, you are a risk
2 to children', that you would contact the Gardaí and say
3 to them 'should I send such a letter?'

4 A. Not in relation to the letter, but there may have been
5 a strategy meeting or other things that take place in 12:19
6 some cases, so I can't say specifically in relation to
7 that. I wasn't involved in that letter.

8 **CHAIRMAN:** It's nothing to do with the Gardaí.

9 A. No, it's a social work role in relation to assessment,
10 yes. 12:19

11 399 Q. **MR. O'HIGGINS:** Could I ask you to deal, Ms. McGlone,
12 with the incorrect notification, if that is the correct
13 terminology. I think it's on page 964. And this now
14 is the report to the duty team leader, social work
15 department, from Laura Brophy. 12:20

16 A. Sorry, can you just scroll to the top of that page,
17 please. Okay, thank you.

18 400 Q. Do you have it there?

19 A. Yes, I do, yes.

20 401 Q. And on page 965, the signatory page is to be found, and 12:20
21 it is from Laura Brophy, isn't that so?

22 A. Yes, it appears so.

23 402 Q. And it's addressed to the duty team leader. Who is
24 that?

25 A. That would have been me at that time. 12:20

26 403 Q. And it's addressed to you. Do you see on the bottom of
27 the page, page 964, there is sort of a slightly
28 difficult to discern date-stamp?

29 A. Yes.

1 404 Q. And we think that may have been the 12th, is it, the
2 12th August?

3 A. Again, I can't clearly see, but it appears that way,
4 yes.

5 405 Q. So this is addressed to you. It's dated a date when 12:21
6 you are presumably in the office, because the same day
7 you are writing a letter, you are preparing a letter
8 for sending to Noel Cunningham?

9 A. Yes.

10 406 Q. This ends up residing on the file, isn't that right? 12:21
11 A. Yes, it seems so, yes.

12 407 Q. But, somehow, it escaped your attention?

13 A. Yes, I have not seen it before, as I have stated, yes.

14 408 Q. But insofar as it came to be located on the file,
15 whatever about not heeding its receipt into your 12:21
16 department on the 12th, can you provide an explanation
17 as to why you or somebody in your department did not
18 heed it in the period following its receipt on the 12th
19 August?

20 A. As I have mentioned in my earlier evidence, all I can 12:22
21 say is that I can speculate that it was assumed to be
22 the same information that was verbally reported and was
23 attached to that, but I can't categorically say why I
24 didn't see it or why it wasn't provided to me at the
25 time, I don't know. 12:22

26 409 Q. Why it wasn't provided to you?

27 A. As in placed in my tray or my post tray, I am not sure.
28 I did not see this letter and I cannot say why. I am
29 only speculating at this point.

1 410 Q. But you came back to the file, presumably, on the 15th?

2 A. I didn't. I don't believe I did see the file after its
3 creation.

4 **CHAIRMAN:** Mr. O'Higgins, I am afraid I am just a
5 little -- perhaps I am lost. It is 964 you are 12:22
6 referring to, is it?

7 **MR. O'HIGGINS:** Yes, Chairman.

8 **CHAIRMAN:** Yes. The description of abuse, just to
9 clarify it, on the front page is: "*Ms. D informed me*
10 *she suffered sexual abuse in childhood. The abuse* 12:23
11 *involved digital penetration, both vaginal and anal.*
12 *The alleged would also threaten Ms. D's father.*"

13 **MR. O'HIGGINS:** Chairman, if you --

14 **CHAIRMAN:** Just hang on a second. In fact, it's
15 Ms. Y's surname that appears there and in the other 12:23
16 blanked-out page, and just --

17 **MR. O'HIGGINS:** In terms of that letter, I don't know
18 if it's Y or --

19 **CHAIRMAN:** No, it is, we have had that already, it's
20 Ms. Y's surname. And then if one goes over the page to 12:23
21 the top of the next page, 965, it contains a completely
22 inconsistent version of events and it gives
23 inconsistent names. Now, the names may be as alike as
24 Charleton and Chamberlain, but they are different
25 names, I understand. "*Ms. D*" -- and this is the 12:24
26 correct name -- "*informed me she was with her parents*
27 *visiting the alleged home, Hide and seek, and that is*
28 *it.*" But it doesn't refer to the alleged couch. I am
29 just clarifying that from the point of view there of

1 what we are talking about here.

2 **MR. O'HIGGINS:** Yes, I am obliged.

3 411 Q. The context then, Ms. McGlone, is that this, of course,
4 is the incorrect report?

5 A. Yes. 12:24

6 412 Q. Misdescribing the alleged abuse?

7 A. Yes.

8 413 Q. And I was asking you in terms of the sequencing, you
9 actually signed your letter, did you, you sent out your
10 letter on the 15th? 12:24

11 A. No, it was pp'd for me by the administrator. I had
12 written a draft version and she sent it on my behalf
13 and pp'd it for me.

14 414 Q. Right. And what -- what level of discussion did you or
15 would you have had with any of your fellow colleagues 12:25
16 in the section concerning ongoing files?

17 A. There wouldn't have been any particular discussion.
18 This file was on -- is recorded on the Measuring the
19 Pressure database as unallocated, awaiting allocation.
20 That is where it was recorded. That was the status of 12:25
21 the file. There would have been no further discussion
22 in relation to that.

23 415 Q. Yes. I took you down as -- in your evidence, as
24 indicating that in terms of your letter to Noel
25 Cunningham, and the matter generally, you used the 12:25
26 expression "*It wasn't high priority*".

27 A. It wasn't. In comparison to the other cases that were
28 priority at that time, it wasn't the high priority
29 case, no.

1 416 Q. And would that -- would it be fair to say that that may
2 have played its part in, insofar as it's relevant, the
3 non-following-up of the letter with a phone call or a
4 further letter?

5 A. Yes, I explained that earlier in the evidence. That 12:26
6 was the reason that it wasn't followed up by me, that
7 other priorities had taken over at that point.

8 417 Q. It wasn't viewed as a big deal?

9 A. It wasn't viewed as a high priority in the context of
10 the other cases. 12:26

11 **MR. O'HIGGINS:** Thank you.

12

13 **END OF CROSS-EXAMINATION BY MR. O'HIGGINS**

14

15 **MR. CUSH:** I have no questions, Chairman. 12:26

16 **MR. MCGUINNESS:** Chairman, I was just going to deal
17 with a couple of issues.

18

19 **MS. MCGLONE WAS RE-EXAMINED BY MR. MCGUINNESS**

20 **AS FOLLOWS:** 12:26

21

22 418 Q. **MR. MCGUINNESS:** Could I ask you to look at page 1325,
23 which is your original statement. You may have that in
24 front of you.

25 A. Yes. 12:26

26 419 Q. In the statement there, eight lines down, you say --
27 well, four lines down, first of all:

28

29 *"As per the national business processes, a previous*

1 *file-check was completed and a file was located on*
2 *Ms. D dating back to 2006/2007 when she was a child. I*
3 *reviewed that file and became aware that the verbal*
4 *allegation received from the Rian Counselling Service*
5 *was consistent with the allegation made by Ms. D in* 12:27
6 *2006."*

7 A. Yes.

8 420 Q. Now, how did you form the view it was consistent if you
9 hadn't read her statement?

10 A. Just based on the contact sheets that were on the file. 12:27
11 Again, it wasn't in detail, but I was aware of, I
12 suppose, the broad nature of the allegation. It seemed
13 to be similar. I hadn't at that point read her Garda
14 statement.

15 421 Q. Okay. And just to be clear, when you reviewed her 12:27
16 file, that was in Cavan, and that was the original
17 file, is that correct?

18 A. That was Ms. D's file, yes, not the CSA file, just her
19 social work file.

20 422 Q. And that file was kept separately from the CSA file, 12:27
21 which was in Monaghan?

22 A. Yes.

23 423 Q. Right. Now, could I ask you to look at page 2470,
24 which is, I think, the extract from the blue book,
25 which might be the first record relating to the 12:28
26 creation of the file. Do you see that?

27 A. Yes, I can see it.

28 424 Q. Could you just read the entries across that page and
29 the next page?

1 A. It starts with the date and the date is "12/8/'13", I
2 think, if I can make out. It's not my handwriting.
3 The next line is "*Name: Maurice McCabe*".

4 425 Q. That is correctly spelt, is it?

5 A. Yes, I think the way Brieger spelt it in the intake 12:28
6 record is generally spelt as a surname. I would always
7 spell Maurice, M-A-U-R-I-C-E, as a first name.
8 M-O-R-R-I-S is a second name.

9 426 Q. You are reading across --

10 A. "*Unknown*" is -- I can't see the top of the page, but I 12:28
11 think that is the address box.

12 427 Q. Yes.

13 A. The next line is the referrer, "*Laura Brophy*" is
14 completed there.

15 428 Q. And on the next page then, 2471? 12:29

16 A. The next one is "*Reason for Referral*" and it's written
17 "*sexual abuse*". And "*Outcome and Service Provided:*
18 "*Duty to guard notify. Await allocation.*" And that is
19 all that is completed.

20 429 Q. Okay. Was that done in your presence at the referrals 12:29
21 meeting?

22 A. Yes, another worker, I am not sure who it was on that
23 particular day, would, while I read the intake records,
24 another worker writes in the book.

25 430 Q. Okay. And do you know whose writing that is, in fact? 12:29

26 A. I can't recognise it, no, I don't know.

27 431 Q. Now, you have obviously told the Chairman that you
28 never saw Ms. Brophy's written report with the
29 erroneous allegation in it at the time?

1 A. No, that is my recollection.

2 432 Q. So, it follows, obviously, that you authorised the
3 intake, decided to create the file at the referrals
4 meeting and the file was opened on the basis of the
5 original 2006 allegation? 12:30

6 A. That's correct.

7 433 Q. And from your perspective, there was unfinished
8 business based upon your child protection service, that
9 Sergeant McCabe had to be met, as it were, is that
10 correct? 12:30

11 A. That is my understanding, yes.

12 434 Q. Okay. And you recorded both there and on the intake a
13 duty to notify?

14 A. Yes.

15 435 Q. And that was intended to relate to a notification to 12:30
16 the guards?

17 A. Yes.

18 436 Q. And can I take it that if Superintendent Cunningham had
19 confirmed or if someone had confirmed that it did
20 relate to the original allegation, that would not mean 12:30
21 that you would close the file?

22 A. That's correct. We still had outstanding work I had
23 identified that needed to be carried out.

24 437 Q. Right. So irrespective of a response from An Garda 12:31
25 Síochána, from your perspective you felt that the case
26 ought to be allocated for assessment?

27 A. Yes.

28 438 Q. And that is assessment of Sergeant McCabe?

29 A. It's an assessment, I suppose, of his response to the

1 allegations and any future risk, if any, he may pose.

2 439 Q. And was that your view irrespective of the Garda
3 outcome of their side of the house, as it were?

4 A. Yes, it would have informed my view in relation to what
5 his response was at the time on that, but yes, I had
6 identified at that point we had outstanding work to do.

12:31

7 **MR. MCGUINNESS:** Thank you.

8

9

END OF RE-EXAMINATION BY MR. MCGUINNESS

10

12:31

11

MS. MCGLONE WAS THEN QUESTIONED BY THE CHAIRMAN

12

13 440 Q. **CHAIRMAN:** Just a couple of things. You have been
14 referring to serious cases and cases that are perhaps
15 less serious. I take it that the top of the line would
16 be a family where incest is taking place and maybe one
17 daughter or two daughters have already been subjected
18 to incest and there is an ongoing concern in relation
19 to both them and perhaps other daughters.

12:31

20 A. Yes, that case. Also, children with serious physical
21 injuries, toddlers with bruising, babies born addicted
22 to heroin or other substances. We had a lot of serious
23 cases at that time.

12:32

24 441 Q. **CHAIRMAN:** And you are going back and you are saying,
25 okay, this is something that is an allegation that is
26 supposed to have happened in 1998, it had already been
27 reported in 2006; if it is the same and if it was
28 confirmed to be the same, and I am unclear as to
29 whether you thought it was the same, then there would

12:32

1 be very little need for further follow-up?

2 A. In relation to the Gardaí aspect of it there would be
3 little need for follow-up. I still had identified that
4 Maurice McCabe hadn't been informed by us of the
5 allegation, we hadn't had a chance to ascertain his 12:33
6 response and place that on file. We also hadn't
7 assessed -- I suppose this concern was resurfacing as
8 an adult was attending a service, it's -- in my view,
9 she was attending the service for a reason, obviously
10 abuse was still, I suppose, a concern for her, she was 12:33
11 attending a service specifically for that reason. That
12 is what the service is designed to be for. So I felt
13 that we had an outstanding role in relation to an
14 assessment there.

15 442 Q. **CHAIRMAN:** No, but what is missing in this is that I 12:33
16 was told yesterday that somebody had made a decision to
17 say, right, there is no need for any further follow-up
18 in relation to this matter.

19 A. Later on, you mean?

20 443 Q. **CHAIRMAN:** No, I am going back to 2007. 12:33
21 A. Oh, yes, sorry, yes, in 2007.

22 444 Q. **CHAIRMAN:** And you were here yesterday for the
23 evidence?

24 A. I was here yesterday for --

25 445 Q. **CHAIRMAN:** So somebody in one agency can make a 12:33
26 decision there is no need for any further follow-up,
27 but in another agency somebody else can make a
28 different decision and nobody is communicating with
29 anyone else.

1 A. Yes, but I suppose in 2007 it was the social work
2 department that decided not to meet with Maurice McCabe
3 at that point. I felt that there was still outstanding
4 work to do. The previous social worker had also --

5 446 Q. **CHAIRMAN:** No, but you are the social work department? 12:34

6 A. Yes.

7 447 Q. **CHAIRMAN:** And did nobody in the social work department
8 tell you, look, we have already made a decision, we are
9 not following up on this particular one?

10 A. No, Ms. D's file was closed and those people who made 12:34
11 that decision had left the service.

12 448 Q. **CHAIRMAN:** I know, but there had to be -- I mean, the
13 file is not closed without somebody going to see the
14 alleged perpetrator, two purposes apparently: what is
15 the response of the perpetrator; secondly, look, find 12:34
16 out is the perpetrator - usually a man - a risk to
17 other kids.

18 A. Yes, that piece of work hadn't been completed.

19 449 Q. **CHAIRMAN:** No, but the file had been closed, and no one
20 was entitled to close the file without making a 12:34
21 decision that this was not necessary. It doesn't
22 happen in every single case, as far as I know, because
23 that is what I was told over the last couple of days,
24 that the alleged perpetrator is met with and assessed,
25 it doesn't happen in every case, but it happens, it 12:35
26 seems, in the vast majority of cases, is that right?

27 A. Yes, I suppose I am applying standards of 2013 perhaps
28 to something that was different in 2007.

29 450 Q. **CHAIRMAN:** Yes.

1 A. But -- yes --

2 451 Q. **CHAIRMAN:** So do you think that is the reason that you
3 were applying the standards of 2013 where perhaps you
4 saw everybody against whom an allegation was made,
5 whereas in 2007 they might not necessarily have seen 12:35
6 everybody but they were able to close files without
7 having seen the alleged perpetrator in, I don't know,
8 maybe five percent of cases?

9 A. Yes, but I suppose all I can say is, in 2013, I felt
10 that had that case come in then, I would certainly have 12:35
11 been meeting Mr. McCabe and putting the allegations to
12 him. I felt there was tasks outstanding. I think that
13 was the standard from 2013. It may not have been the
14 practice in 2007, I appreciate that.

15 452 Q. **CHAIRMAN:** Yes. 12:35

16 A. I also felt that as an adult was attending a service
17 for that reason, it, I suppose, it raised the concern
18 for me that this was something that had happened and
19 that I needed to further assess.

20 **CHAIRMAN:** Yes. So basically, once the file was 12:36
21 created, and please correct me if I am misunderstanding
22 this, the file is, in effect, a ticking clock, which
23 will come to a point, which may be random, where
24 somebody will pick it up and say, right, now we can get
25 around to this one, we have dealt with all the incest, 12:36
26 heroin, et cetera, cases, and we need to talk to this
27 person who has had an allegation made against them?

28 A. Yes, it would have been my -- my, I suppose, intention
29 was that the case would be allocated at some point.

1 453 Q. **CHAIRMAN:** So it's the creation of the file?
2 A. Yes.

3 454 Q. **CHAIRMAN:** Okay. Now, then going on to the question of
4 the letter. You wrote the letter, you got no response.
5 You gave the three phone numbers. You had -- the 12:36
6 person -- the superintendent had your address, never
7 wrote back. I take it you were then involved in other
8 work?
9 A. Yes.

10 455 Q. **CHAIRMAN:** And there has never been a response to that? 12:37
11 A. No.

12 456 Q. **CHAIRMAN:** If you had met face-to-face and if the
13 superintendent had said, look, this is the 2006 thing,
14 this is what the DPP said, you might have been able to
15 discuss is there any issue in relation to this MMC 12:37
16 person, would that be right?
17 A. Yes.

18 457 Q. **CHAIRMAN:** At a face-to-face meeting?
19 A. Yes.

20 458 Q. **CHAIRMAN:** Do you have such face-to-face meetings with 12:37
21 Gardaí?
22 A. Yes, we do have regular strategy meetings with Gardaí.

23 459 Q. **CHAIRMAN:** And are those the kind of questions you --
24 A. We -- generally in these type of cases you would plan,
25 you know, if it's a current -- if it was not 12:37
26 necessarily retrospective, if it was a current
27 allegation, we would coordinate timing in relation to
28 discussing allegations with alleged perpetrators so as
29 not to jeopardise investigations and things.

1 460 Q. **CHAIRMAN:** The question has been put to you, and this
2 is what I want clarification on, as to the ticking
3 clock. So the file is created, it's to 2013 standards,
4 and the 2013 standards, please first of all confirm, is
5 it 100 percent of cases where an allegation is made 12:38
6 against someone that you have to see the perpetrator,
7 in 2013?

8 A. I can't say with certainty it's 100 percent, but
9 generally that is the practice.

10 461 Q. **CHAIRMAN:** well, 'generally' could mean 51%. That is 12:38
11 not helping me.

12 A. I can't guarantee that every single case -- every case
13 I was involved in, we generally opened a file and
14 arranged -- at some point the intention would be to
15 inform the alleged perpetrator. 12:38

16 462 Q. **CHAIRMAN:** well, do you know of cases where you didn't
17 inform the alleged perpetrator?

18 A. I don't know of cases where I didn't.

19 463 Q. **CHAIRMAN:** So in every single case you dealt with from
20 2012/2013 on, you did inform the alleged perpetrator? 12:38

21 A. I opened the file. Whether or not they were allocated
22 is a different story, but I certainly opened the file
23 with the intention of doing that.

24 464 Q. **CHAIRMAN:** Yes. So if the superintendent had met you,
25 had answered the letter, had phoned you up, had spoken 12:38
26 to you face to face and said, 'look, this is something
27 from way back, this is what the DPP said about it, this
28 is what we think about it', would you have been in a
29 position at that point to say, 'look, close that file,

1 you don't need to go any further'?

2 A. I probably still would liked to have met Mr. McCabe to

3 inform him that we had information relating to him on

4 file.

5 465 Q. **CHAIRMAN:** And is there any way that you could have met 12:39

6 the person informally, for instance, by not writing the

7 Barr letter that we know from the 29th of December 2015

8 which includes the incorrect allegations; in other

9 words, is there any method whereby you can send someone

10 a simple letter saying, 'Dear so-and-so, we are the 12:39

11 social work, we would like to meet you on a matter

12 which may be of concern to you', and sit down with them

13 and talk without writing a big long elaborate letter

14 detailing the allegations in this case, the false

15 allegations that got on the file? 12:39

16 A. I would say that in 2013 the practices weren't -- the

17 detailed letter that was generated in 2015 was based on

18 a new policy that came out in 2014. That wasn't in

19 existence in 2013, so perhaps the level of, I suppose,

20 detail may not have been in that letter had it been 12:39

21 sent in 2013.

22 466 Q. **CHAIRMAN:** No, I am sorry, we are not communicating

23 perhaps the best. What I am saying is this: let's

24 suppose you met Superintendent Cunningham.

25 A. Yes. 12:40

26 467 Q. **CHAIRMAN:** Let's suppose you discussed it and he said,

27 look, this was the background, and you had a chat.

28 would you have been in a position at that point to say,

29 I am not going to go any further, I am not going to

1 write to Maurice McCabe? Would you have been in a
2 position to do that in 2013?

3 A. It's hard for me to say categorically here without
4 having had that meeting or a conversation, but I
5 probably still would have wanted to meet with Maurice 12:40
6 McCabe and explain to him that we had a file on him,
7 yes.

8 468 Q. **CHAIRMAN:** Well, then, the second question is, if you
9 want to meet with him do you need to send him an
10 upsetting letter detailing the allegations of abuse, or 12:40
11 can you simply send a letter saying, 'Hello, we are
12 Social work and would it be possible to meet with you
13 and have a chat on a matter that may of concern to
14 you?'

15 A. Yes, generally my practice would have been to write the 12:40
16 letter to say -- invite them to an appointment first.
17 I wouldn't go into detail in that initial letter.

18 469 Q. **CHAIRMAN:** And when did the practice change whereby
19 Social work, and I am saying HSE, Tusla, in relation to
20 all of this, I am calling them Social work, decided 12:41
21 that the way to invite someone to a meeting was to send
22 a letter including 'you have been guilty of digital,
23 vaginal and anal abuse' actually in the letter, send it
24 to their home, it could be opened by their wife or
25 whatever, when did that practice come about? 12:41

26 A. A new policy, I can't say with certainty, but a new
27 policy was, I suppose, disseminated from the national
28 office in 2014. September 2014, a new policy came out
29 detailing --

1 470 Q. **CHAIRMAN:** And that is the kind of letter you had to
2 write?

3 A. It's a very detailed policy. I know that I --

4 471 Q. **CHAIRMAN:** That is despite the fact that the case that
5 this is based on, the decision of Mr. Justice Barr, is 12:41
6 back in 1998.

7 A. Yes --

8 472 Q. **CHAIRMAN:** So that is 16 years before. But the way you
9 deal with that is changing all the time?

10 A. I would say social workers around the country, 12:41
11 including our office, have written, I suppose,
12 expressing concern about that policy and the
13 implications that it has.

14 473 Q. **CHAIRMAN:** well, I mean, one of the obvious ones is
15 that you write it to a person, but there is plenty of 12:42
16 people in a household who open other people's post on
17 the basis that what is coming through the door is
18 innocuous and everybody is sharing all information.
19 That would have come as a bombshell.

20 A. Yes. 12:42

21 474 Q. **CHAIRMAN:** That kind of letter would come as a
22 bombshell to anybody's household.

23 A. Oh, I acknowledge that, yes.

24 475 Q. **CHAIRMAN:** Then the last thing I wanted to ask you
25 about was this: You will be aware that, nowadays, 12:42
26 there are computer system and they are not exactly new;
27 I know they are around in the national archives
28 certainly since 2010 whereby actual written documents
29 can be scanned and read and you can search them and a

1 file is created, and if you put in the word, I don't
2 know what, 'donkey', every file with the word 'donkey'
3 will come up, whether in handwriting or in print, in
4 front of you. Your service, Social work, doesn't have
5 that, I take it? 12:42

6 A. We have just piloted the National Childcare Information
7 System, which is a system, an NCIS system, where all
8 information is scanned onto the computer and files are
9 then held electronically, but it's only in the last few
10 weeks. 12:43

11 476 Q. **CHAIRMAN:** And is it in a pilot project?

12 A. It's a pilot project.

13 **CHAIRMAN:** And so roll-out will take time?

14 A. It will take time, yes.

15 **CHAIRMAN:** So we will take an hour. Thank you. 12:43

16
17 **THE HEARING ADJOURNED FOR LUNCH**
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1 **THE HEARING RESUMED, AS FOLLOWS, AFTER LUNCH:**

2
3 **MS. LEADER:** Sir, the next witness is Ms. Laura
4 Connolly. Her statement is to be found in volume 9 of
5 the materials, and it starts at page 2606. 13:43

6
7 **MS. LAURA CONNOLLY, HAVING BEEN SWORN, WAS DIRECTLY**
8 **EXAMINED BY MS. LEADER:**

9
10 477 Q. **MS. LEADER:** Ms. Connolly, if you could outline your 13:44
11 qualifications to the Tribunal, please.

12 A. I am a professionally qualified social worker. I hold
13 national qualifications in social work. I graduated
14 from University College Dublin in 2004 with a Bachelor
15 of Social Science. Following that, I graduated from 13:44
16 UCD with a Master's in social work.

17 478 Q. And if you could tell the Tribunal a little bit about
18 your work history as well, please?

19 A. My practice as a social worker started in the summer of
20 2006. My employment at that point was with the 13:44
21 then-HSE Child and Family Agency. That was in
22 Dublin/Mid-Leinster. I remained there until October
23 2010, when I secured permanent employment with the
24 Social Work Department in Cavan-Monaghan. I remained
25 in the Cavan office from October 2010 until July 2014, 13:44
26 when I internally transferred to the Social Work
27 Department in Monaghan.

28 479 Q. Okay -- sorry.

29 A. In that eleven-year period I have occupied the role as

1 social worker on the Children in Care team, social
2 worker on the initial assessment team, on the further
3 assessment team and duty social worker on a rotational
4 basis within the team. Currently, I'm in a temporary
5 social worker team leading post on the duty intake team 13:45
6 based in Monaghan.

7 480 Q. If you can confirm, please, you're aware of the
8 identity of an individual the Tribunal is referring to
9 as Ms. D, is that correct?

10 A. That's correct. 13:45

11 481 Q. Okay. And in relation to Ms. D, can you confirm to the
12 Tribunal whether or not you had any dealings with her
13 up until her file was closed in October 2007?

14 A. No. I was not in employment with the Cavan-Monaghan
15 Social Work Department at that time. 13:45

16 482 Q. Okay. Had you any knowledge of her file?

17 A. No.

18 483 Q. And in relation to the purpose of your evidence here
19 today, as I understand it you were the person who next
20 dealt with the file after the last witness, is that 13:46
21 correct?

22 A. That's correct.

23 484 Q. And that dealing took place in April 2014, is that
24 correct?

25 A. On the 30th April 2014, yes. 13:46

26 485 Q. And in relation to the file you dealt with in April
27 2014, it was a file that was opened under the
28 instruction of the last witness, Ms. Keara McGlone, is
29 that correct?

1 A. That's correct.

2 486 Q. Okay. So she has given evidence here today that she
3 opened -- directed that a file be opened in April of
4 2013, is that correct -- or, sorry, in August 2013, I
5 beg your pardon. 13:46

6 A. Yes, that's correct.

7 487 Q. And on the file at that stage she had created, or under
8 her instruction created two documents, isn't that
9 correct?

10 A. Yes. 13:47

11 488 Q. She had created an intake record under her instruction
12 from Mr. McCabe, is that right?

13 A. Ms. McGlone had signed off as team leader on an intake
14 record, yes, in respect of Mr. McCabe.

15 489 Q. And there was also a letter written to 13:47
16 Superintendent Noel Cunningham on the file at that
17 stage?

18 A. From my preparation for the Tribunal, I am aware that
19 that letter is on file.

20 490 Q. Okay. It would appear the file was put into a filing 13:47
21 cabinet and stayed there until April 2014, is that
22 correct?

23 A. To the best of my knowledge, yes.

24 491 Q. Okay. Now, I just want to explore with you how it is
25 you pulled the file out of the filing cabinet in April 13:47
26 2014.

27 A. Okay.

28 492 Q. You understand that?

29 A. Yes.

1 493 Q. I understand from the statement you gave to the
2 Tribunal that you have very little actual memory of
3 that procedure, is that correct?

4 A. That's correct. My evidence that I presented is based
5 on my review of the file in preparation for a statement 13:48
6 and interview with the investigators.

7 494 Q. Okay. So if I could take you back to April 2014, what
8 position were you working in with the HSE at that time?

9 A. At that point, I was social worker on the initial
10 assessment team. 13:48

11 495 Q. Okay. And in particular, on the 30th April 2014, what
12 were you doing on that day?

13 A. I have checked my work diary, and according to the
14 entry on the 30th April 2014 I have noted that I was
15 occupying the role as duty social worker on that day. 13:48

16 496 Q. Okay. And just in very general terms, what does a duty
17 social worker do?

18 A. The duty social worker is, in effect, the first point
19 of contact for any new reports of a child protection
20 and welfare nature to the Social Work Department, and 13:48
21 that is reports that relate to a family whom we have
22 had no previous involvement with, reports in respect of
23 a family who are open to the department but have an
24 unallocated social worker or reports in respect of a
25 family who have a closed file with the department. 13:49

26 497 Q. So would you be sitting taking phone calls or available
27 to meet members of the public, or maybe phone calls
28 from members of An Garda Síochána; could you tell us
29 how that role works in actual practice?

1 A. Yeah. When occupying the role of duty social worker at
2 that time in 2014, there was a designated room in which
3 you occupied as the duty social worker in which had you
4 access to landline and computer. As duty social
5 worker, you had the potential to be dealing with 13:49
6 walk-in appointments to the department, that is
7 unplanned appointments, accepting telephone calls, be
8 it from members of the public, professionals, and then,
9 as and when opportunity arose during the course of that
10 day, to continue to advance any files that were in the 13:49
11 duty room with duty tasks to be completed.

12 498 Q. Okay. So we know in April 2014 that nobody, such as,
13 it would appear, a member of the public referred
14 Mr. Maurice McCabe's file to you, is that correct?

15 A. That's correct. 13:50

16 499 Q. So in the duty social worker room there were other
17 files that were already in the system, is that correct?

18 A. That's correct.

19 500 Q. And could you tell us a little bit about those other
20 files in general? 13:50

21 A. Yeah. In the duty room there was a filing cabinet,
22 that cabinet was a four-drawer cabinet, and in that
23 were files which were open to the department and had
24 action on it from the social work team leader with
25 regard to duty tasks to be completed in order to 13:50
26 progress our inquiries or assessments. Those files,
27 unfortunately, were not in any chronological order with
28 regard to month or year of acceptance, and the duty
29 social worker, as opportunity arose on duty, would

1 revert to the next file in the cabinet to advance.

2 501 Q. Do you have a positive memory of that being your work
3 practice when you were duty social worker from time to
4 time?

5 A. That was my work practice, yes. 13:51

6 502 Q. Okay. And in relation to the files which were in the
7 filing cabinet, it is my understanding, and I may be
8 incorrect in relation to this, that those files were
9 maintained on a system called Measuring the Pressure,
10 am I correct about that? 13:51

11 A. That's correct. The Measuring the Pressure system is
12 something that I, as a social worker, didn't need to be
13 familiar with, but I was aware that that was in place
14 in order to assist team leaders in recording the cases
15 that were open and awaiting allocation, cases that were 13:51
16 allocated and the priority of cases.

17 503 Q. Okay. On that system, were cases prioritised in any
18 way, do you know?

19 A. Based on my current role, I'm familiar with Measuring
20 the Pressure system, so I can answer that question 13:52
21 based on current knowledge, and the Measuring the
22 Pressure system allows for categorisation of referrals
23 as high, medium and low. So --

24 504 Q. Sorry, I cut you off there.

25 A. Yeah. Just with regard to the high, medium and low 13:52
26 categorisation, we have direction from the Tusla
27 national office with regard to how that categorisation
28 occurs.

29 505 Q. Okay. So based on what you said there, is it fair to

1 say, and I'm suggesting this to you, that the files on
2 the filing cabinet which were on the Measuring the
3 Pressure system, had been allocated some sort of
4 priority, or is that incorrect, based on high, medium
5 and low? 13:52

6 A. Based on my current role and my current knowledge, I
7 would expect that in 2013 -- or 2014, that the cases on
8 the MTP, the Measuring the Pressure, would have been
9 categorised based on high, medium and low by the social
10 worker team leader. 13:53

11 506 Q. So on any given day that the duty social worker was
12 picking a file to work on, would any regard have been
13 given to where they were on the Measuring the Pressure
14 system?

15 A. The duty social worker didn't have access to the 13:53
16 Measuring the Pressure system and the status of the
17 case on the MTP, to the best of my knowledge, at that
18 time wasn't recorded on the actual intake record.

19 507 Q. Okay. So for all -- any duty social worker knew at the
20 time they could have been working on a low priority 13:53
21 file when there were higher property files in the
22 filing cabinet, am I correct in saying that?

23 A. Potentially, yes.

24 508 Q. So this may be a question you're not able to answer,
25 Ms. Connolly, so what was the point of the Measuring 13:53
26 the Pressure system if random files were picked out of
27 the filing cabinet to be dealt with at any time?

28 A. Sorry, could you repeat the question for me, please,
29 again?

1 509 Q. As I understand it, you could pick out any file from
2 the Measuring the Pressure system to work on on any
3 given day that you were a duty social worker, is that
4 correct?

5 A. The cases -- the files that were only in the duty room 13:54
6 were, yes, whilst they were recorded on the Measuring
7 the Pressure system, they were only cases that had
8 tasks for the duty social worker to complete. They
9 were not cases allocated to the worker.

10 510 Q. Okay. 13:54

11 **CHAIRMAN:** If I could understand.

12 **MS. LEADER:** Yes.

13 **CHAIRMAN:** Let's say high priority is incest within a
14 family where two daughters have already been subjected
15 to incest and there's a grave danger of two more being 13:54
16 subjected to incest.

17 A. Yes.

18 **CHAIRMAN:** So you have two children to get out of a
19 dreadful situation, you've two others to stop getting
20 into a dreadful situation. Medium might be something 13:54
21 else, where, I don't know, sex abuse had occurred and
22 two people were complaining and you were wondering did
23 the person against whom the complaints were made have
24 access to children, and low might be something like
25 historic abuse where there was one issue and it was 20 13:55
26 years ago. But what Ms. Leader was asking you was,
27 it's all very well to categorise those things, and
28 that's a good idea, but surely you would have three
29 filing cabinets: here's the terrible ones, here's the

1 ones that are not quite as bad as terrible and here's
2 ones we're the least worried about. But you didn't
3 have that?

4 A. No. High priority --

5 **CHAIRMAN:** Then, what Ms. Leader was asking you was, 13:55
6 what's the point of having Measuring the Pressure
7 because it doesn't make any sense if you are allowed to
8 pick from any cabinet, none of which are differentiated
9 in terms of how bad the risk is.

10 A. High priority cases wouldn't have been in the duty 13:55
11 room. High priority cases were cases that required an
12 immediate response and required immediate allocation.
13 So cases in the duty room were more than likely medium
14 priority cases or low priority cases.

15 511 Q. **MS. LEADER:** So in the duty room, there were two 13:56
16 categories of cases, medium and low priority, and they
17 weren't differentiated from each other in the duty
18 room?

19 A. No.

20 512 Q. So you could have picked out either a medium or a low 13:56
21 priority case from the filing cabinet at any given
22 time?

23 A. That's correct.

24 513 Q. Okay. Then it doesn't seem to make sense to me, and 13:56
25 maybe I'm wrong about this, to have a system in place
26 prioritising medium and low priority files. Do you
27 understand what I am saying?

28 A. I do, I understand.

29 514 Q. But that was the system --

1 A. Yes.

2 515 Q. -- at the time. Now, on that particular day, as I
3 understand it, you randomly picked out Sergeant
4 McCabe's file from the filing cabinet, is that your
5 evidence? 13:57

6 A. Yes. To the best of my knowledge and my explanation
7 for my involvement with Mr. McCabe's file is that I had
8 opportunity on that day to revert to the cabinet, to
9 take another file to complete a task and it happened to
10 be Mr. McCabe's file. 13:57

11 516 Q. Okay. And that was on the 30th April 2014?

12 A. That's correct.

13 517 Q. Because I don't know if you appreciate this,
14 Ms. Connolly, but April 2014 has a particular
15 significance when it comes to matters relating to 13:57
16 Sergeant McCabe.

17 A. I am now aware of that from a review of all of the
18 folders I have received from our solicitors in
19 preparation for today.

20 518 Q. Okay. Did the name Maurice McCabe ring any bells with 13:57
21 you when you pulled the file out of the filing cabinet?

22 A. Absolutely not.

23 519 Q. Okay. You're aware that he became a person of high
24 media interest in 2013, the end of 2013?

25 A. I am only aware of that again based on my review of the 13:58
26 folders in preparation for today, which I have received
27 in the last few weeks.

28 520 Q. Okay. And in January 2014 the then-Commissioner of An
29 Garda Síochána appeared in the Public Accounts

1 Committee speaking about garda whistleblowers and
2 referring to Sergeant McCabe in what could be said to
3 be derogatory terms.

4 A. I'm not aware of the specifics of Mr. McCabe and An
5 Garda Síochána's interactions with each other. It's 13:58
6 something I have referenced in my statement, that with
7 respect to Mr. McCabe and An Garda Síochána, it's not a
8 story of interest to me or of any significance to me.

9 521 Q. Okay. And then we have -- in March 2014, we have the
10 Commissioner of An Garda Síochána resigning. So again, 13:59
11 very high media interest with regard to Garda
12 whistleblowing. You understand it was a constant
13 presence in the media at that time?

14 A. Yeah, I absolutely accept the point that you're making.
15 I am categorical in my position that my working on 13:59
16 Mr. McCabe's file on the 30th April 2014 is nothing
17 more than a coincidence with everything else that I am
18 now aware of was going on in the media surrounding
19 Mr. McCabe and An Garda Síochána.

20 522 Q. Okay. And prior to that, in February 2014 we had the 13:59
21 Government appointing a senior counsel to review the
22 whistleblowing allegations made by Sergeant McCabe?

23 A. Okay.

24 523 Q. And we also, coincidentally, in April 2014, we had a
25 number of articles written by Paul Williams, one on the 14:00
26 12th April 2014 and one on the 15th April 2014, in
27 relation to an unnamed person at that time, but they
28 were written in relation to Ms. D, do you understand
29 what I am --

1 A. Yes, I accept the picture that you're presenting, yes.

2 524 Q. Okay. And, coincidentally, the day before you picked
3 out Sergeant McCabe's file from the filing cabinet,
4 Ms. D made a complaint to GSOC in relation to the Garda
5 investigation that had been conducted in relation to 14:00
6 the allegations she made against Sergeant McCabe.

7 A. Yes. I noted that myself when I read the Opening
8 Statement for the Tribunal.

9 525 Q. And you appreciate, Ms. Connolly, that it is difficult
10 at this stage to, on one level, to accept that you had 14:01
11 no knowledge of Sergeant McCabe prior to the 30th April
12 2014, with all that had been going on in the media up
13 'til that time?

14 A. I accept that, but again reiterate that Mr. McCabe was
15 of no significance to me, nor An Garda Síochána and all 14:01
16 of the events that were surrounding that.

17 526 Q. Do you read daily newspapers?

18 A. I don't.

19 527 Q. Do you listen to the radio or television news?

20 A. Whilst driving in my car, yes, the radio would be on. 14:01
21 I don't buy newspapers on a daily basis or a weekly
22 basis. I don't sit to watch the news at six o'clock or
23 nine o'clock on a routinely basis. Whatever news I
24 hear is whilst I am travelling on the road in the car.

25 528 Q. And what about, do you check breaking news on the 14:02
26 Internet or any newspapers on the Internet at any time?

27 A. As a rule, no.

28 529 Q. Do you follow any news accounts on Twitter or social
29 media or any journals?

1 A. I am not on social media, I don't have a Facebook
2 account, I'm not on Instagram, I don't have a Twitter
3 account. I'm not very savvy with technology or, in
4 fact, interested in pursuing social media.

5 530 Q. Okay. But in any event, your position is, all the 14:02
6 references to Sergeant McCabe that were in the media
7 from the end of December 2013 to April of 2014 totally
8 went past you?

9 A. Absolutely.

10 531 Q. Okay. Well, if I can then take you to the 30th April 14:02
11 2014. In your evidence, as I understand it, to the
12 Tribunal, you pulled out Sergeant McCabe's file from
13 the filing cabinet, is that correct?

14 A. That's my belief, yes.

15 532 Q. And if I can take you then to volume 9 of the materials 14:03
16 and at page 2190 of the materials. It's available in
17 hard copy immediately next to you and it should come up
18 on the screen as well.

19 A. Yeah.

20 533 Q. So, at that time, the first thing you would have seen 14:03
21 in relation to the file is the fronting sheet Family
22 Support and Child Protection Services file, am I
23 correct, that is the first thing you would have seen?

24 A. That'd be correct, yes.

25 534 Q. And then the adult's name -- child's name is taken out, 14:03
26 the adult's name is written in as "*Maurice McCabe*".

27 A. I see that, yes.

28 535 Q. Okay. Now, I understand what you are saying, that you
29 hadn't any interest in the various media stories that

1 had been going on prior to then, but on seeing that
2 file and that name on front of the file, did it in any
3 way alert you to, you might be dealing with somebody
4 with an extremely high media profile, current high
5 media profile? 14:04

6 A. Absolutely not. Again, with respect to Mr. McCabe,
7 this was another adult file that I was working and no
8 different to any other adult file. And why I am
9 certain that Mr. McCabe had no significance or interest
10 to me, was that I was taken by surprise when my area 14:04
11 manager, Mr. Gerry Lowry, contacted me in February of
12 this year to advise me that, potentially, I may have a
13 role in the Tribunal, and it was only at that point I
14 became aware of my involvement on the particular case.

15 536 Q. Okay. Then if we open the file, the next page that we 14:05
16 come to is page 2191 of the materials, and that's a
17 section of the file which include the social work
18 intake template and the notification details, is that
19 correct?

20 A. Yes. 14:05

21 537 Q. Yes. And what would you expect to see in that section
22 of the file in normal circumstances?

23 A. I would expect to see the intake record.

24 538 Q. Yes.

25 A. And I am not certain, maybe, if I am maybe going too 14:05
26 far ahead at this point --

27 539 Q. That's okay.

28 A. -- in my evidence, but I would expect that -- I suppose
29 in this instance I am aware that there was a telephone

1 call from a professional, where the professional had
2 indicated they would send in the written report. So I
3 would expect to see the intake record which was
4 generated on foot of the telephone call, with the
5 attached written report from the professional. 14:06

6 540 Q. Okay. But we know in this particular file the written
7 report from the counsellor, Ms. Brophy, has been
8 actually removed from the file, isn't that correct,
9 because of subsequent events?

10 A. I understand that. Because at time of review of the 14:06
11 file in preparation for today, the first written report
12 by Rian was not on the file.

13 541 Q. On the file. So when you opened it in April 2014, the
14 likelihood is, is that the retrospective disclosure of
15 abuse form was in that section of the file, is that 14:06
16 correct?

17 A. I'm certain that it was, and why I am certain is that
18 the other documents that I know we will come to which I
19 generated, the content of those documents was taken
20 from the first written report sent in by Rian, so 14:06
21 therefore the written report was definitely on the
22 file.

23 542 Q. Okay.

24 **CHAIRMAN:** So just to clarify for me, Ms. Leader, what
25 you are saying is, although it may not be there now 14:07
26 because it was taken out, but when this was opened the
27 Ms. D/Ms. Y conflation written report from Laura Brophy
28 was on it?

29 **MS. LEADER:** Yes, that is my understanding.

1 **CHAIRMAN:** Together with what seems to be a correct
2 description of what was alleged as well?
3 **MS. LEADER:** Exactly, Chairman.
4 **CHAIRMAN:** So two completely contradictory accounts
5 were on the file? 14:07
6 **MS. LEADER:** Immediately once you open it, yes.
7 **CHAIRMAN:** Yes.
8 543 Q. **MS. LEADER:** So if you then turn to page 2192 of the
9 documentation, which is the next page of the file. It
10 may very well be that there was another document on top 14:07
11 of this document, which was Ms. Brophy's retrospective
12 disclosure of abuse form, is that correct?
13 A. That's correct.
14 544 Q. And would you expect that document to have been on top
15 of the intake record, which was put together by 14:08
16 Ms. Tinnelly and Ms. McGlone, or would it have come
17 after that document, or do you have anything to say in
18 relation to that?
19 A. The appropriate place for the document is in this
20 section, and I would expect that it may have been 14:08
21 stapled to the back of the intake record.
22 545 Q. Okay.
23 A. Or potentially it was put to the front.
24 546 Q. All right. Maybe we will deal with the intake record,
25 first of all, so. Taking it that you went through the 14:08
26 intake record, and that's at page 2192, which is in
27 front of you, you will see at the very top of it in
28 handwriting the word "*check*" appears, is that correct?
29 A. Yes, I see that.

1 547 Q. And would that in any way have put you on inquiry in
2 relation to this document?

3 A. The word "*check*"?

4 548 Q. Yes. In handwriting?

5 A. No, no. 14:09

6 549 Q. So it wouldn't have meant that you wouldn't have had to
7 check the details in that report?

8 A. I wouldn't interpret that from that word.

9 550 Q. Okay. What would you interpret from that word?

10 A. I'm wondering might it be a reference for 14:09
11 administration when they were processing, preparing the
12 file to be opened.

13 551 Q. So is it the case that you would have thought that word
14 wouldn't have been directed towards a social worker?

15 A. That word wouldn't have jumped out at me as anything 14:09
16 significant for me in my looking at the file.

17 552 Q. Okay. So then we have the report date on it, which is
18 the 9th August 2013, isn't that correct?

19 A. That's correct.

20 553 Q. And then we have details of child, and underneath that 14:10
21 we have "*Adult: Maurice*" misspelt "*McCabe*", isn't that
22 correct?

23 A. Yes.

24 554 Q. His address was "*unknown*" at that time, isn't that
25 right? 14:10

26 A. Yes, I see that.

27 555 Q. Now, then we go down to the "*details of the report*" and
28 in the normal way would you go through this, the
29 details of the report on the intake record?

1 A. In the course of my work, when reviewing a file, if I
2 note an intake record, I note in the detail that the
3 content is based on a telephone call and I then see
4 that a written report has been received. Within days
5 of the telephone call, I tend to follow the written 14:10
6 report that the professional has sent in, for the
7 simple fact being that when a professional puts
8 something in writing, that is something that they are
9 prepared to stand over and that would appear to be the
10 more accurate account. Sometimes words can get lost 14:11
11 during a telephone conversation.

12 556 Q. Okay. But if we just look at the details of the
13 report, which is at section 7.

14 A. Yes.

15 557 Q. We will see that the first thing that's on that is 14:11
16 that:

17
18 *"Laura advised that she has a client at present called*
19 *Ms. D, who is now 21. She self-referred to the*
20 *service. Ms. D told Laura that she was abused when she 14:11*
21 *was six or seven by Garda Maurice McCabe, who was her*
22 *father's garda partner at the time. Ms. D's father is*
23 *a garda. Maurice McCabe was stationed in Bailieboro at*
24 *the time and has two daughters, who were three and five*
25 *at the time. Ms. D had blocked out the abuse and it 14:11*
26 *came back to her when she was approximately 11 when she*
27 *has sex education at school, and it was reported to*
28 *Gardaí but there was no prosecution from the DPP. The*
29 *details of the abuse is: Ms. D was playing hide and*

1 *seek in Maurice McCabe's house when Maurice put her on*
2 *the couch, tickled her and touched her inappropriately*
3 *whilst gyrating on top of her with her clothes on."*
4
5 we then come to details of Ms. D's phone number. And 14:12
6 then:
7
8 *"Laura agreed to send in standard notification form."*
9
10 So I wonder could you help me in relation to this. 14:12
11 where does it say that all of that was communicated by
12 way of a phone conversation?
13 A. If perhaps maybe I could get moved to page 2194, from
14 my review for today I feel that perhaps there at "*Mode*
15 *of Report*", number 8. 14:12
16 558 Q. 8.
17 **CHAIRMAN:** It may be more helpful to the witness,
18 Ms. Leader, I'm just thinking in fairness in this
19 context.
20 **MS. LEADER:** Yes. 14:12
21 **CHAIRMAN:** You actually have, and Ms. Leader took the
22 trouble to put the file there beside you.
23 A. I have the exhibits, yes.
24 **CHAIRMAN:** And if you want to flick back and forward,
25 it's easier than just seeing it on the screen. 14:13
26 A. Yeah.
27 **CHAIRMAN:** And just refer to a page number. I think
28 you wanted to go to 2194?
29 **MS. LEADER:** Yes, it is. It is 2193, I think, "*Mode of*

1 *Report*". And volume 9 in its entirety is just to your
2 right, so there should be an actual paper copy of the
3 file, just to your right-hand side.

4 A. Yes.

5 559 Q. It may be easier for you. 14:13

6 A. Okay. I'm sorry, maybe I could get some assistance.
7 This volume 9.

8 560 Q. I think it may be on the table next to you, just to
9 your right.

10 A. This is volume 9. 14:14

11 561 Q. There are two volume 9s, that is the confusion. Just
12 lying on the table next to you.

13 A. Oh, sorry.

14 562 Q. Yes. Just inside tab 1, and we're just a few pages
15 into it. 14:14

16 **CHAIRMAN:** So that reproduces the file except for the
17 bits that were subsequently taken out?

18 **MS. LEADER:** Exactly.

19 **CHAIRMAN:** And we haven't put the bits that were
20 subsequently taken out back in. 14:14

21 **MS. LEADER:** Back in, no.

22 **CHAIRMAN:** Yes.

23 563 Q. **MS. LEADER:** So we are at page 2192 I was referring
24 you, I was asking you about --

25 A. Yes. 14:15

26 564 Q. -- going back to 30th April 2014, say, in relation to
27 being a telephone call that was recorded on that intake
28 record, where on that form did you take from that form
29 that it was a telephone conversation that was recorded?

1 A. At section 8 on the form, subheading "*Mode of*
2 *Report*" --

3 565 Q. Yes.

4 A. -- there is a drop-down on the computerised version of
5 the phone. 14:15

6 566 Q. "*Telephone*", yeah.

7 A. And number 4 on that list was "*telephone*", so that is
8 how I was aware.

9 567 Q. Okay, you knew. But I suppose I'm just asking you
10 this, Ms. Connolly: you would have already gone 14:15
11 through the details of report to understand that it was
12 a telephone report. You would already have read
13 section 7?

14 A. That would be correct.

15 568 Q. Am I correct in saying that? 14:16

16 A. Yeah.

17 569 Q. Okay. I think the rest of the form then at page 2193
18 is not filled in. And on page 2194, in handwriting,
19 section (b) at number 12 "*Known to Social Work*
20 *Department?*" It says "*no*", is that correct, X in -- 14:16

21 A. That's correct.

22 570 Q. Then, in handwriting, "*query previously known?*" is put
23 in as question-mark.

24 A. Yes, I see that.

25 571 Q. would that mean that you had to take any further steps 14:16
26 in relation to whether or not the matter was known to
27 the Social Work Department in your role as duty social
28 worker?

29 A. Yes, that would suggest that an additional check would

1 need to be completed to determine that there was no
2 knowledge. That would flag that to me.

3 572 Q. would that be your job, to ascertain whether or not the
4 parties were known to the Social Work Department?

5 A. On that date, on the 30th April, if it appeared that no 14:17
6 further checks had been completed, that would be a role
7 that I could complete to ensure certainty that there
8 was no previous involvement.

9 573 Q. Okay. And if we then -- in relation to "*Other Checks*",
10 that's left blank, and if we go down to section C, 14:17
11 number 14 "*Primary Report Type*", it says "*sexual abuse*
12 *of child*", isn't that correct?

13 A. That's correct.

14 574 Q. And the "*Welfare Concern Category*" doesn't seem to be
15 filled in at all, is that correct? 14:17

16 A. That's correct.

17 575 Q. And then the "*Action on Completion of Intake Referral*",
18 a box is ticked at "*notified to An Garda Síochána*", is
19 that correct?

20 A. That's correct. 14:18

21 576 Q. And what does that say to you and what would that have
22 said to you on reading this form in April 2014?

23 A. Well, the handwritten note further below --

24 577 Q. Yes.

25 A. -- indicates that "*duty to Garda notify*". 14:18

26 578 Q. Okay. And "*await allocation*", is that --

27 A. Yes.

28 579 Q. And the file was still unallocated when you took it out
29 of the filing cabinet, is that correct?

1 A. That's correct.

2 580 Q. Okay. So what would the "note comment", would that --
3 the "duty to Garda notify", would that have been a task
4 to you or would you refer it to somebody else at that
5 stage? 14:18

6 A. No, in my role as duty social worker I could Garda
7 notify.

8 581 Q. Okay. In normal, do you have any positive memory of
9 taking that from that form on that day?

10 A. No. But from review of the paper I'm aware that a 14:19
11 Garda notification form was created and an e-mail sent
12 from my account with the Garda notification, so I have
13 no reason to suggest that it was anyone other than me
14 that created that Garda notification.

15 582 Q. In the normal course of events, would you have 14:19
16 discussed notifying the matter to the Gardaí with
17 anybody else before you actually notified the Gardaí or
18 created a Garda notification form?

19 A. In this instance, it wasn't necessary that I liaise
20 with the social work team leader, who was my line 14:19
21 manager and who I would go to for clinical advice and
22 supervision, because social work team leader has
23 directed at this point duty to Garda notify.

24 583 Q. If I can go back to "Details of Report", which is on
25 page 2192, and in the second-last line of the first 14:19
26 paragraph of that:
27
28 "Ms. D had blocked out the abuse and it came back to
29 her when she was approximately 11 when she had sex

1 *education at school and it was reported to the Gardaí*
2 *and there was no prosecution from the DPP".*

3 Do you see that line there?

4 A. I see, yes.

5 584 Q. So what did you think was the purpose in reporting the 14:20
6 matter to the Gardaí in 2014, when plainly, on a
7 reading of this form, it had already been done in
8 2006/2007?

9 A. Okay. whilst it appears that Ms. D had made the 14:20
10 allegations as a child, it was then a current child
11 protection concern, the matter was now being reported
12 to the Social work Department as a retrospective
13 allegation of sexual abuse. Within our Children First
14 National Guidelines, it gives scope for Social work to
15 notify An Garda Síochána of suspected abuse. So, for 14:21
16 me, it wasn't in any way out of the ordinary that we
17 would a Garda notify retrospective allegation of sexual
18 abuse. We are not required to --

19 **CHAIRMAN:** Sorry, that is not what Ms. Leader is asking
20 you. What she is asking you is this: it's actioned 14:21
21 refer to Gardaí. On the form it says not only has it
22 already been referred to Gardaí, but a file actually
23 went to the DPP, and that can only come from the
24 Gardaí, and the DPP said no prosecution. So the
25 question you're being asked is, if you actually read 14:21
26 the form and it says it has been at the Garda, what's
27 the point in an action "*refer to Garda*"? That is the
28 question you are being asked.

29 A. Okay. Well, at that point I'm following direction from

1 the social work team leader but we now have received
2 this as a retrospective allegation of sexual abuse and
3 we haven't received confirmation at that point from An
4 Garda Síochána that the matter had been addressed or
5 investigated at that time or any confirmation from them 14:22
6 as to the outcome of their investigation.

7 585 Q. **MS. LEADER:** It would appear that there was information
8 on the form that there was an outcome available to the
9 HSE insofar as the report received from Ms. Brophy said
10 there was no prosecution from the DPP. So what I am 14:22
11 trying to understand, Ms. Connolly is, why? What was
12 the purpose in notifying it again to the Gardaí when
13 they had already investigated the matter?

14 A. Well, this was now a retrospective allegation of sexual
15 abuse, and there's an obligation on -- on Tusla at the 14:22
16 time to notify Gardaí of any suspected abuse. I do
17 accept your point that it appears from this that the
18 Gardaí were aware in the past of it then as current
19 child protection concern, but within our policies and
20 procedures there is scope for us to report suspected 14:23
21 abuse to An Garda Síochána.

22 **CHAIRMAN:** I am desperately trying to stay silent but
23 I'm afraid I'm not succeeding. This always was
24 retrospective. If you actually look at the form it
25 says "*she is now 21*" and then it says "*when she was six* 14:23
26 *or seven*", so it was then retrospective, it had gone to
27 the Gardaí, the Gardaí had sent a file to the DPP, the
28 DPP had said no prosecution. So what Ms. Leader is
29 asking you is, why, in the light of all of that, what

1 is the possible reason for referring it to the Gardaí
2 again? If you actually read the form -- I mean, if you
3 want to tell us, I didn't read the form at all, that's
4 maybe a different thing, but that's what's being looked
5 into. 14:23

6 A. I obviously did read the form because the direction on
7 the form is to Garda notify and it was on foot of that,
8 that I created the notification.

9 586 Q. **MS. LEADER:** I suppose what I am really asking you is,
10 what did you expect the Gardaí to do with that 14:24
11 notification, considering they had already conducted an
12 investigation, brought the file to the DPP and closed
13 it?

14 A. I'm aware --

15 587 Q. What exactly did you expect the guards to do with this? 14:24

16 A. I'm aware from my practice that with regard to all
17 retrospective allegations of sexual abuse, and when I
18 refer to 'retrospective' I'm referring to an adult
19 making the allegation pertaining to their childhood,
20 I'm aware that we routinely notify those allegations to 14:24
21 An Garda Síochána via the notification form. I
22 understand that An Garda Síochána don't approach adult
23 complainants in that instance. So the practice is, is
24 my understanding, simply information-sharing.

25 588 Q. All right. If I could then -- sorry. 14:24

26 **CHAIRMAN:** I'm sorry for interrupting.

27 **MS. LEADER:** No, that is okay.

28 **CHAIRMAN:** I'm sorry, Ms. Leader. But you may not be
29 familiar with police procedures, but does this make

1 sense to you: a man accuses another man of having
2 punched him in the face. Before the file goes to the
3 DPP, of course they speak to the man who got the punch,
4 but they also speak to the man who is supposed to have
5 delivered the punch. Now, if it is sex abuse, it's the 14:25
6 same. So how could you imagine the Gardaí had sent in
7 a file without speaking to the person who was
8 supposedly the alleged perpetrator? That doesn't make
9 any sense at all.

10 A. Perhaps, maybe, I'm not being clear. 14:25

11 **CHAIRMAN:** No, but you felt that perhaps the Gardaí had
12 not spoken to Maurice McCabe back in 2006/2007 before
13 sending in a file to the DPP, that is what I took, and
14 I may have taken you up totally wrong.

15 A. Well, apologies, no, that is not what I meant 14:25
16 whatsoever.

17 **CHAIRMAN:** And what did you mean?

18 A. I'm -- in relation to Ms. Leader's question about why
19 notify An Garda Síochána about a matter which it
20 appears that they had previously investigated, I am 14:26
21 simply trying to explain that this was now a
22 retrospective allegation of sexual abuse which Tusla
23 had received, and our practice has been, and continues
24 to be, that when we receive retrospective allegations
25 of sexual abuse, we notify An Garda Síochána. 14:26

26 **CHAIRMAN:** And then Ms. Leader asked you what did you
27 hope to achieve given that it had already been there,
28 and that's the point at which I interrupted, and
29 forgive me for -- so what could this possibly achieve?

1 A. At that point it's communication between social work
2 and An Garda Síochána and for social work to, in turn,
3 follow up with Gardaí to determine if they have had any
4 past involvement with, be it the alleged victim and
5 alleged perpetrator and, if so, what was the outcome of 14:27
6 that.

7 589 Q. **MS. LEADER:** I still have difficulty in understanding
8 exactly the purpose of it, because we know they had
9 past involvement with the complainant and the alleged
10 perpetrator, because that was written down on the form. 14:27

11 A. Yes.

12 590 Q. You understand what I am saying to you?

13 A. Yes, yes, I accept that.

14 591 Q. Is there anything else you can tell the Tribunal as to
15 the purpose of Garda notification in 2014? 14:27

16 A. No, I have nothing further to add.

17 592 Q. Okay. All right. The next form that would have
18 appeared on the file, as you opened it then in April
19 2014, is Laura Brophy's retrospective disclosure of
20 abuse form, and that has been removed from the file 14:27
21 now. So if you could turn to page 3658, and
22 Mr. Kavanagh will bring it up for you, a copy of it.
23 That would appear to have been received by the HSE on
24 the 12th August 2013 and we now know put on the file
25 after Ms. McGlone checked off on the intake record. So 14:28
26 do you think you read that report, or would it be your
27 practice to read that report in your role as duty
28 social worker?

29 A. I believe I did read the report, yes.

1 593 Q. Okay. So you would have been immediately after reading
2 the intake record created by Briega Tinnelly at that
3 stage and you would have then turned to the
4 retrospective disclosure of abuse form which was dated
5 9th August 2013, is that correct? 14:28

6 A. That's correct.

7 594 Q. And the client name on top of it is Ms. D. Her address
8 and her telephone number is redacted from that form.
9 And then we see to the duty social worker, and that was
10 you at that stage, am I correct in saying that; you 14:29
11 were now dealing with it as the duty social worker?

12 A. I was the duty social worker on that day, on the 30th
13 April, yes.

14 595 Q. And then we come down the next thing, that's the type
15 of disclosure, and we see it is a planned disclosure, 14:29
16 and abuse alleged is sexual, isn't that correct, on the
17 form?

18 A. Yes, that's correct.

19 596 Q. So it's entirely consistent with the previous form so
20 far? 14:29

21 A. Yes.

22 597 Q. And then the next thing that is seen on the form is
23 "*Description of Abuse*", okay. Then there is
24 " -- [redacted] -- informed me that she suffered sexual
25 abuse in childhood. The abuse involved digital 14:29
26 penetration, both vaginal and anal. The alleged would
27 also threaten -- [redacted] -- father if she said
28 anything."
29

1 You see that?

2 A. Yes.

3 598 Q. Now, you appreciate that this is something totally
4 different than what is detailed in the form you had
5 just read? 14:30

6 A. Yes, I accept that.

7 599 Q. Yeah. So do you think in actual fact you read either
8 of those two forms or picked out one to read, looking
9 back on it now?

10 A. As I have referenced earlier, I expect I read both 14:30
11 forms. But in my practice where I noticed that a
12 telephone call from a professional is followed up
13 within a number of days with a written report from the
14 professional, I would follow the content of the written
15 report from the professional. 14:30

16 600 Q. Okay. So am I to take from that, is that you decided
17 at that time that the details of abuse set out in the
18 retrospective disclosure of abuse form were the
19 reliable details of the abuse? Did you actually make
20 that positive decision on that day? 14:31

21 A. Yes, I believe I did.

22 601 Q. So I just want to go back to the "*Description of*
23 *Abuse*". We now know it is Ms. Y's name that appears in
24 the description of the abuse?

25 A. Yes. 14:31

26 602 Q. So we have "*Ms. Y informed me*" and then again "*the*
27 *alleged would also threaten Ms. Y's father if she said*
28 *anything*". Okay. So we have two differences with the
29 intake record which was completed by one of your

1 colleagues, isn't that correct? We have a description
2 in the -- a difference with the description in the
3 nature of the abuse and we also have a different
4 name --

5 A. That's correct. 14:31

6 603 Q. -- isn't that correct? And can you explain in any way
7 why you picked this description as being the reliable
8 description of the abuse which was alleged against
9 Mr. McCabe?

10 A. If I can state at this point that the first that I 14:31
11 became aware that Ms. Y's name was located in two
12 places in this form was at my interview with the
13 investigators on the 23rd June this year. Up until
14 then, I had assumed that the description of the
15 abuse -- I wasn't aware that another person's surname 14:32
16 was located in two places in the form. If the form
17 could perhaps be scrolled up to the top. If you could
18 repeat the question again to me, please.

19 604 Q. I'm just asking you, how is it you picked the 14:32
20 description of abuse as appeared in the retrospective
21 disclosure of abuse form as being the reliable
22 description of abuse when it differed from the intake
23 record in both the details and the name contained in
24 it, if you can explain it. If you can't -- yes.

25 A. Yes. I suppose firstly to state that I am now aware 14:33
26 that there's -- the surname of Ms. Y and Ms. D is very
27 similar.

28 **CHAIRMAN:** well, now --

29 A. I am very clearly accepting --

1 **CHAIRMAN:** Let's pick another name. As different as
2 Charleton is from Chamberlain or Charleton is from
3 Chalmers, they are different names.

4 A. And I accept that. And I accept that I did not detect
5 the error in the Rian report. I am trying to in some 14:33
6 way to explain to the Tribunal how I believe this
7 oversight on my part came about. The Rian report
8 clearly outlets -- at the outset of the report,
9 outlines Ms. D's name and her details. Over page 1 and
10 page 2 of the report, it refers to description of the 14:34
11 abuse and further detail and in page 1 and page 2 it
12 refers to Ms. Y's surname, twice on page 1, and the
13 remainder of page 1 refers to Ms. D by her Christian
14 name and on the second page by her surname. And I am
15 of the belief that in the busyness of the office 14:34
16 environment and in scanning this report to elicit the
17 detail to put in to the Garda notification, that I
18 overlooked that in the body of that report there was
19 the reference to another person.

20 605 Q. **MS. LEADER:** Do you want to add anything else with 14:35
21 regard to how it came about that you picked that as the
22 description of the abuse alleged by Ms. D? Can you
23 help us any further with regard to that.

24 A. Sorry, can you repeat the question again for me,
25 please? 14:35

26 606 Q. Is that your explanation for picking that as the
27 description of the abuse over and above the description
28 which was contained on the intake record?

29 A. Yes. And as I have stated earlier, when professionals

1 send in a written report, I tend to go with the content
2 of the written report as they have signed off on it.

3 607 Q. Okay. And you don't think the fact that there was a
4 different name put in in relation to the description of
5 the abuse would put you on inquiry in relation to its 14:35
6 accuracy in any way?

7 A. Should I at the time have detected that, I absolutely
8 would have made inquiries with Rian, there is no
9 question about it.

10 608 Q. But you think you overlooked that? 14:36

11 A. I absolutely did.

12 609 Q. Okay. So the remainder of the form, we will see that
13 the relationship of the alleged abuser was the father's
14 work colleague, and then if we turn over to the next
15 page, which is 2659, we see the following information: 14:36
16

17 *"Ms. D informed me that she was with her parents and
18 they were visiting the alleged's home at the time of
19 the incident. Ms. D informed me that her parents and
20 the alleged wife were in another part of the house and 14:36
21 that she was playing hide and seek with the alleged and
22 his two daughters, who were approximately three and
23 five years of age at the time."*

24

25 Is that correct? 14:36

26 A. Yes.

27 610 Q. And then the location of the abuse: *"Cavan. Specific
28 location unknown"*. And then in *"Details of any current
29 risk to children, if known"*, it's recorded that *"Ms. D*

1 *is currently unaware of the alleged whereabouts and*
2 *whether he has access to children". And then there is*
3 *a specific question in relation to "Garda statement has*
4 *been made". You see that there?*

5 A. Yes. 14:37

6 611 Q. And that is ticked "Yes". And the details in that set
7 out that: *"Ms. D remembered the abuse when she was*
8 *approximately 11/12 years and informed her parents.*
9 *Ms. D made a statement to the Gardaí at this time and*
10 *the file was sent to the DPP. However, Ms. D was later* 14:37
11 *informed that there was insufficient evidence to*
12 *proceed any further."*

13
14 So did that in any way make you question whether or not
15 it was necessary to send a Garda notification? 14:37

16 A. No.

17 612 Q. Okay. Then in relation to the additional information,
18 it says:

19
20 *"Mr. Maurice McCabe was a member of the Gardaí at the* 14:38
21 *time of the incidents and although he left Bailieboro*
22 *Station where he worked with Ms. D's father, it is not*
23 *known if he is still an active member of the Gardaí."*

24
25 You see that there? 14:38

26 A. Yes.

27 613 Q. Now, would that in any way have made you recognise that
28 this was a person who was of national media interest at
29 that very time?

1 A. No.

2 614 Q. You'll see that there's -- was a member of the Gardaí,
3 and Bailieboro Garda Station is specifically mentioned.

4 A. I see that.

5 615 Q. That didn't put you on alert? 14:38

6 A. No.

7 616 Q. Okay. Now, if we could go back to the file, which is
8 in front of you, as you opened it in 2013. There are a
9 number of sections left blank, and the next entry to
10 the file is the letter that the last witness Keara 14:39
11 McGlone wrote to Noel Cunningham, and that's at page
12 2244. Do you think you saw that letter when you opened
13 the file in April 2014?

14 A. If the letter was on file, I have no reason to doubt
15 that I saw it. 14:39

16 617 Q. Okay. And that letter has been opened to the Tribunal
17 this morning, but it would appear from it, what
18 Ms. McGlone was trying to do was trying to meet with
19 Superintendent Cunningham *"to discuss the case prior to*
20 *making any contact with the alleged perpetrator"*. And 14:39
21 would that in any way have put you on inquiry in
22 relation to the matter?

23 A. No.

24 618 Q. That more information should have been put together by
25 the social workers before putting the information out 14:39
26 any further?

27 A. No.

28 619 Q. why do you think that is?

29 A. Because the intake record was generated -- or the

1 sign-off date, if I recall correctly, was the 9th
2 August 2013. This letter is dated 15th August 2013.
3 The social work team leader direction on the 9th August
4 was to Garda notify. This letter was written
5 subsequent to that date. So I would expect if the team 14:40
6 leader had wanted that the Garda notification be held
7 off on it being sent until an outcome of this was
8 known, it would have been amended on the file.

9 620 Q. Okay. Did you in any way think it would have been a
10 good idea to maybe contact Superintendent Cunningham by 14:41
11 way of a follow-up letter considering it would appear
12 it hadn't been replied to at that time, and we know it
13 wasn't now?

14 A. Yeah. No, I didn't. I don't believe I considered
15 that. 14:41

16 621 Q. Now, the next version of the file is starting at page
17 2210, and that is the file as it was in 2014. So in
18 your evidence you say you took this file out of the
19 filing cabinet and identified a task to be completed,
20 that task being completing the Garda notification, is 14:41
21 that correct?

22 A. That's correct.

23 622 Q. So do you think that is what you would have done
24 immediately?

25 A. Yes. 14:41

26 623 Q. Would you have taken any further steps or thought about
27 doing anything else at that time? We know you did, but
28 the first thing you did, do you think it was the Garda
29 notification?

1 A. I can't say for certain in what order I completed the
2 various forms on that date in April.

3 624 Q. Okay. You see there is another possibility as to how
4 you came to work on that file on that day. And if you
5 could turn to page -- and this is only a possibility, 14:42
6 considering you have no memory of it -- if you could
7 turn to page 2229 of the materials, Ms. Connolly. So
8 if that is in front of you.

9 A. Yes.

10 625 Q. You will see that there is an undated notification of 14:42
11 suspected child abuse to be sent to an unidentified
12 superintendent, which was -- and that commences at page
13 2229 of the documentation. And attached to that would
14 appear to be a Post-It note, is that correct?

15 A. That's correct. 14:43

16 626 Q. And if you could read out the contents of that Post-It
17 note, please.

18 A. It states: *"Duty to notify allegations on to Garda*
19 *Síochána and filing cabinet, Eileen."*

20 627 Q. And who is Eileen? 14:43

21 A. Eileen is Eileen Argue, and Eileen was the acting
22 social work team leader at that time.

23 628 Q. She had taken over Keara McGlone's job at that stage,
24 is that correct?

25 A. That's correct. 14:43

26 629 Q. So I am canvassing this to you, Ms. Connolly: Do you
27 think you could have been following an instruction from
28 Eileen Argue to Garda notify and then taken the file
29 out of the cabinet at that time? Do you think that is

1 a possibility?

2 A. It's a possibility.

3 630 Q. Okay. Have you thought of that possibility before
4 today?

5 A. The first that I became aware of this, this Post-It, 14:44
6 was again at my interview with the investigators last
7 week.

8 631 Q. Okay. I think at that stage you told the investigators
9 that it may not be related to Mr. McCabe's file at all,
10 is that correct? 14:44

11 A. Yeah. There's no date on this Post-It, there's no
12 reference to what file it relates to. One possibility
13 is that this Post-It was attached to the front of the
14 file and that when I completed the notification I put
15 the Post-It on to it. The other possibility is that 14:44
16 the Post-It relates to a totally separate file. It's
17 difficult to answer categorically.

18 632 Q. And there's also a possibility that the Post-It was put
19 in front of the duty social worker on that day as a
20 task specifically to be completed in relation to 14:45
21 Sergeant McCabe's file. And that's only a possibility?

22 A. Only a possibility, yes.

23 633 Q. Okay. And maybe -- that may be a possibility, that
24 once you had completed the task of drafting a Garda
25 notification you then put the Post-It on the Garda 14:45
26 notification that you had completed.

27 A. Yes.

28 634 Q. That's a possibility as well?

29 A. Yes.

1 635 Q. And just in relation to Ms. Argue at that time, was her
2 office near yours? Was it located close by the duty
3 social workers?
4 A. It was on the same corridor, yes.

5 636 Q. Okay. So is it a possibility that you may have 14:45
6 discussed the file with her on that day?
7 A. I have no recollection, but yes, it is a possibility.

8 637 Q. Okay. But you've no positive recollection of that?
9 A. No.

10 638 Q. Okay. Because the reason I am asking you that, 14:45
11 Ms. Connolly, is, Mr. Deeney and Mr. Lowry seem to
12 think that it is a responsibility of a group to create
13 a Garda notification, that it's done in consultation
14 with a team leader and a social worker. Do you
15 understand what I am saying to you? 14:46
16 A. I do. The generation of the Garda notification up
17 until now, it has been my understanding that I was
18 following the direction by the social work team leader
19 on the intake record. This Post-It is throwing out
20 another possibility, that the second team leader may 14:46
21 have further requested notification. So that
22 references the consultation between social worker and
23 social work team leader.

24 639 Q. Okay. I know you don't have a particular memory of
25 creating these, but it may very well be that the file 14:46
26 was taken out of the cabinet in April 2014 under
27 direction of Ms. Argue, and that's only a possibility?
28 A. Only a possibility, yes.

29 640 Q. Okay. So we have two possibilities: that it was a

1 random selection by you when you were duty social
2 worker on the day or Ms. Argue may have directed you
3 towards it?

4 A. Yes.

5 641 Q. And you have no positive memory of either of those two 14:47
6 possibilities?

7 A. No.

8 642 Q. And do you understand why the Tribunal is interested in
9 how it came about in view of the particular notoriety
10 of Sergeant McCabe at the time, you understand why am 14:47
11 asking you those questions?

12 A. I absolutely understand based on all you have outlined
13 at the start, yes.

14 643 Q. All right. So if we can then go through the
15 notification of the suspected child abuse. Do you have 14:47
16 any memory of actually creating this document?

17 A. No.

18 644 Q. Okay. It's at page 2229 of the file and the first
19 thing on it is, it's "*To: Superintendent, Garda*
20 *Síochána, Superintendent in Charge*", but there is no 14:48
21 actual superintendent or no Garda station identified on
22 it, is that correct?

23 A. That's correct.

24 645 Q. Is that your normal practice?

25 A. Yes. Linda Dewhirst is the administration staff member 14:48
26 who takes the lead with the circulating of Garda
27 notifications, and when she receives them she inputs
28 the relevant Garda station, the superintendent and the
29 date.

1 646 Q. Okay. So that wouldn't have been your responsibility
2 as duty social worker?

3 A. No.

4 647 Q. And then we have the child's name, "*Retrospective adult*
5 *disclosure. Alleged victim: Ms. D*". Then we have 14:48
6 date of birth, address, father's name, mother's name
7 and the sex of the child, is that correct?

8 A. That's correct.

9 648 Q. And then the first thing that's written on it is:
10
11 "*The above-named child has come to the notice as a*
12 *possible victim of child abuse.*" 14:49
13

14 That is the next sentence. That is a standard sentence
15 in all such notifications, is that correct? 14:49

16 A. That's correct.

17 649 Q. And then we have: "*The form of abuse suspected.*"
18

19 And there are a number of options and the box that is
20 ticked is "*sexual abuse*", is that correct? 14:49

21 A. That's correct.

22 650 Q. Then if you could please read out what's in the
23 "*Details of the abuse*" which is at page 2229, you
24 created that narrative, is that correct?

25 A. That's correct. 14:49

26 651 Q. Yes. If you could read that out for me, please.
27 A. "*Laura Brophy, counsellor with Rian counselling*
28 *service, reported the following information to the*
29 *Child and Family Agency in August 2013.*"

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The first paragraph:

"Ms. D is attending counselling with Rian. During the course of counselling she alleged that she experienced sexual abuse in childhood. This abuse involved digital penetration, both vaginal and anal. This abuse is alleged to have occurred on one occasion in 1998 to 1999. Ms. D reports being aged six or seven years old at the time of this alleged abuse. Ms. D alleges that the alleged perpetrator of this abuse threatened her father if she said anything. Ms. D alleges that this incident of alleged abuse occurred while she and her parents were visiting the home of the alleged perpetrator. Ms. D alleges that her parents and the alleged perpetrator's wife were in another part of the house and she was playing hide and seek with the alleged perpetrator and his two daughters, who were then aged approximately three years and five years of age."

14:50
14:50
14:50

The next point:

"Ms. D identified the alleged perpetrator as Mr. Maurice McCabe. Specific address for Mr. McCabe not provided. Ms. Brophy reports that Mr. McCabe resides in County Cavan."

14:50

Next point:

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"Mr. McCabe and Ms. D's father were work colleagues, both members of An Garda Síochána."

And the final point:

14:50

"Ms. D informed her parents of this alleged abuse when she was aged 11 or 12 years of age. Ms. D made a statement to An Garda Síochána at the time. A file was sent to the DPP. However, no prosecution was directed."

14:51

652 Q. Okay. So in the body of that, you were telling the guards they had already investigated this matter, isn't that correct?

A. That's correct, based on the content of the Rian report, yes.

14:51

653 Q. So as far as you were concerned, you were notifying the guards of something they had already been notified of, isn't that right?

A. Yes.

14:51

654 Q. And then the designated social worker dealing with the matter, and if you would just continue on and finish what was inserted into the form, please?

A. In the name section?

655 Q. Yes.

14:51

A. *"Eileen Argue, acting social work team leader"*, and her telephone number. Then the address of the agency, Child and Family Agency, Drumalee, Cavan, and then signed that box, is for the designated officer, and

1 that is left blank, as when Linda updates the form with
2 regard to the Garda station, the superintendent in
3 charge and the date, she prints this notification for
4 Seamus Deeney for sign-off.

5 656 Q. Okay. And did it ever occur to you to direct the 14:52
6 guards to Superintendent Cunningham, who you knew at
7 that stage was involved in investigating the matter
8 back in 2007?

9 A. No, I didn't.

10 657 Q. Is that usual or not usual, do you know, in accordance 14:52
11 with your usual work practices?

12 A. In accordance with usual work practices, it's not.

13 658 Q. It's not unusual or usual?

14 A. It's not usual.

15 659 Q. So you would normally wouldn't give details of any 14:52
16 specific member of An Garda Síochána, is that correct?

17 A. That may be assigned to the matter?

18 660 Q. Yes, that had investigated the matter. Maybe if I put
19 it this way --

20 A. No, I understand your point. 14:52

21 661 Q. Yes.

22 A. In hindsight, yes, it would have been appropriate to
23 have inserted Inspector Cunningham's details, that's
24 valid.

25 662 Q. Okay. And the next document on the file then is at 14:53
26 page 2231 and it's an email from you, is that correct?

27 A. That's correct.

28 663 Q. And you were sending it to Linda Dewhirst, and that was
29 sent again on the 30th April 2014, shortly after 12:30,

1 is that correct?

2 A. That's correct.

3 664 Q. And it would appear attached to that email was the
4 Garda notification that you had just drafted, am I
5 correct in saying that? 14:53

6 A. Yes.

7 665 Q. And if you could read out the body of the e-mail,
8 please?

9 A. *"Dear Linda, Garda notification for circulation."*
10 14:53

11 Then there's the attachment, and I have worded:
12

13 *"Garda notification Ms. D.*
14 *Regards,*
15 *Laura."* 14:53

16

17 And then my details. Work address is present.

18 666 Q. And do you think you asked Ms. Argue to check it or
19 anything of that nature?

20 A. No. I'm certain I wouldn't as it wasn't practice that 14:53
21 we sent the Garda notification for the team leader for
22 approval.

23 667 Q. Okay. Now, if I could then take you to a memorandum on
24 the file which you wrote, and that's, I think, at page
25 2229, I think -- no, sorry, that is the Garda 14:54
26 notification. 2235. Now, in front of you is a Tusla
27 contact sheet, is that correct?

28 A. Yes.

29 668 Q. And that originally was a blank form, is that correct?

1 A. That's correct.

2 669 Q. And on it it's headed "*Contact Sheet*", and at the very
3 top of that sheet it says "*Name*", is that correct?

4 A. That's correct.

5 670 Q. And what does it say then? 14:55

6 A. It says "*McCabe children*".

7 671 Q. Okay. So how do you think you ended up sending a note
8 to Ms. Argue in relation to the McCabe children?

9 A. The practice in the Social Work Department in 2014 and
10 prior to that was, when we received allegations, be 14:55
11 they current allegations or retrospective allegations
12 of sexual abuse against an adult, and we were aware
13 that that adult, that alleged perpetrator, was living
14 with children, practice was to open intake records in
15 respect of the children, and this contact sheet to 14:55
16 Eileen relates to that.

17 672 Q. Okay. So you would have known in relation to two of
18 Mr. McCabe's children from the intake record which had
19 been created by Brieghe Tinnelly and also from the form
20 which had been completed by Laura Brophy, is that 14:56
21 correct?

22 A. That's correct.

23 673 Q. Okay. And the information in relation to the McCabe
24 children was that Mr. McCabe, at the time of the
25 alleged assault on Ms. D, had two daughters who were 14:56
26 approximately three years and five years of age at the
27 time, is that correct?

28 A. That's correct.

29 674 Q. And you didn't know their names at that time, isn't

1 that correct?

2 A. Yes.

3 675 Q. And you didn't know Mr. McCabe's address, isn't that
4 correct?

5 A. That's correct. 14:57

6 676 Q. And the documents on the McCabe file at that time,
7 nowhere to be found on it was details of his children,
8 other than he had two daughters, and there were no
9 details in relation to his address?

10 A. That's correct. 14:57

11 677 Q. Okay. So if you could just -- in relation to the note
12 you wrote to Ms. Argue, it's dated 30/4/2014, and what
13 you said to Ms. Argue is:
14

15 *"Eileen, I have checked system and we have no record of* 14:57
16 *file on Maurice McCabe's two children at the time."*

17

18 And that's obviously reflecting, it would appear to me,
19 the information which was on the intake record and the
20 retrospective abuse form, is that correct? That is 14:57
21 reflecting that information? Am I correct in saying
22 that?

23 A. If I can just have a minute to just read.

24 678 Q. Yes.

25 A. Yes, that's correct. 14:58

26 679 Q. Then it says, *"Based on"*, and I am not referring to
27 that name there.

28 A. Yes.

29 680 Q. We will leave it out. *"... I suspect these two*

1 689 Q. Then you say:
2
3 *"I deduce that these two children are under 18 years*
4 *now."*
5 Is that correct? 14:59
6 A. That's correct.
7 690 Q. *"How do you want to proceed regarding the McCabe*
8 *children?"*
9 And there's a question-mark there, is that right?
10 A. That's right. 14:59
11 691 Q. Now, before I continue on with what else is recorded in
12 that form, it seems to be apparent from what you have
13 written down there that you have pulled another file
14 out of the system, is that correct?
15 A. That's correct. 14:59
16 692 Q. And that other file, since there was no file created in
17 relation to Mr. McCabe when the allegations were made
18 by Ms. D, could only have been Ms. D's file, is that
19 correct?
20 A. Yes, Ms. D's social work file. 15:00
21 693 Q. Now, I just want you to take a minute to explain that
22 there were two files created in relation to Ms. D and
23 if you could explain why that was the case and the
24 contents and where those two files were separately
25 located? 15:00
26 A. Yeah. I'm aware since starting to prepare for the
27 Tribunal that there are, in fact, two files in respect
28 of Ms. D. One file is a social work file and the
29 second file is a file belonging to the child sexual

1 abuse team. That file would have been opened in
2 respect of Ms. D by what we call the CSA team on foot
3 of receiving a referral from the social worker in
4 relation to Ms. D's allegation of child sexual abuse
5 dating back to 2007 approximately. 15:00

6 694 Q. Okay. So in relation to those two files, there's the
7 social work file for Ms. D and the child sexual abuse
8 file, is that correct?

9 A. That's correct.

10 695 Q. Where was the social work file kept? 15:01

11 A. The social work file is kept in the Cavan office in our
12 filing system and the child sexual abuse file was held
13 in the Monaghan office by the CSA team.

14 696 Q. So on the day in question you would have had immediate
15 access to the social work file, is that correct? 15:01

16 A. That's correct.

17 697 Q. And it would appear from that note that you actually
18 pulled that file and brought it with you in order to
19 complete your investigations in relation to the McCabe
20 children, is that correct? 15:01

21 A. Yes, that's correct.

22 698 Q. Okay. Now, is that a normal work practice of yours?

23 A. Yes, within the department. When a report is received
24 if it references other names, be that adult or
25 children, we would check our system to determine if we 15:02
26 had any past or present involvement, and review that
27 file to determine if there's any connection or
28 information relevant for the other files.

29 699 Q. Okay. And here were you looking for specific

1 information in relation to the McCabes from the Ms. D
2 file? It would appear you were.

3 A. Yes.

4 700 Q. And was that information Mr. McCabe's address and
5 details of his children? 15:02

6 A. I suspect that the purpose of that was yes, to try to
7 determine if we had any other identifying information.

8 701 Q. Okay. Now, you understand that the Tribunal has been
9 given a copy of Ms. D's counselling file and her child
10 sexual abuse file. And that information has been 15:02
11 circulated to the various parties in part, you
12 understand that?

13 A. Okay.

14 702 Q. And it's also heavily redacted.

15 A. Okay. 15:03

16 703 Q. Okay. So if we could turn to volume 1 of the
17 materials, and it would appear that the witness who
18 gave evidence to the Tribunal on Tuesday last,
19 Ms. Murphy, recorded those details on the -- it will
20 come up in front of you, if it is more convenient for 15:03
21 you?

22 **MR. MCDOWELL:** Page?

23 **MS. LEADER:** Page 178.

24 704 Q. So in reviewing the file would you have gone through
25 everything on the file or can you assist me at all with 15:03
26 regard to what you would have actually looked at in
27 relation to Ms. D's file?

28 A. I expect I would have looked at any referrals on the
29 file, contact sheets, closure summary and any other

1 relevant reports to the allegation.

2 705 Q. Okay. From my reading of the file it would appear that
3 details of the McCabe children appear at one stage only
4 in the file and that is in the notes which Ms. Murphy
5 took when she visited Ms. D's family once Ms. D made an 15:04
6 allegation of sexual abuse against Mr. McCabe, do you
7 understand what I am saying?

8 A. Yes.

9 706 Q. So she first of all, on the 8th December 2006, returned
10 a call to Mrs. D, taking a report in relation to the 15:04
11 allegation which was made against Sergeant McCabe at
12 that time. And down at the very end of that page, in
13 the last paragraph, you will see that Rhona Murphy
14 records on her notes that *"She said to Ms. D" -- and*
15 *she being "Ms. D" -- "that she was worried that her* 15:05
16 *father would not believe her. Ms. D went on to say*
17 *that a few years ago when they were staying with*
18 *friends, Ms. D and her brother and children of the*
19 *class were playing in the hallway. The man of the*
20 *house brought Ms. D into the sitting room, bent her* 15:05
21 *over a chair, held on to her and was humping her*
22 *allegedly."*

23
24 So it would appear that again in Ms. Murphy's notes
25 there's a description of the allegation made against 15:05
26 Sergeant McCabe. Do you remember ever reading that
27 when you reviewed the Ms. D file?

28 A. I can't specifically recall.

29 707 Q. Well, do you think you would have? Do you think you

1 would have read it at the time when you were reviewing
2 the Ms. D file?

3 A. I can't say for certain.

4 708 Q. Okay. And you understand that that is, once again, a
5 description of the allegation made against Mr. McCabe? 15:06

6 A. Yes.

7 709 Q. Which accords with the intake record Ms. Tinnelly
8 completed but does not accord with Ms. Brophy's
9 description in her written report?

10 A. Yes. 15:06

11 710 Q. Okay. You see I have to ask you, Ms. Connolly, what is
12 the purpose of reviewing the Ms. D file if you don't
13 register in one way that the description of the abuse
14 is different than that recorded by Ms. Brophy?

15 A. Yeah, my explanation to that is that, on that day, on 15:06
16 duty, I was completing a task. Should I have been
17 allocated the case to complete the assessment, this is
18 something I would pay more attention to.

19 711 Q. Okay. So I think you were searching through the file
20 to get details of the McCabe children, is that correct? 15:07

21 A. I can't say for certain that I was specifically
22 reviewing the Ms. D file for the purpose of identifying
23 information on the children, but in reviewing it to try
24 to inform the retrospective allegation that we had
25 received. 15:07

26 712 Q. Okay. So if you were reviewing it to inform the
27 retrospective allegation, it would appear that it was
28 very relevant that the details of the abuse recorded by
29 Rhona Murphy differed to Laura Brophy's recording of

1 the details. You understand what I am saying to you?

2 A. I do, yes.

3 713 Q. And can you in any way explain why you didn't realise
4 that the details were different?

5 A. I can't explain further, no. 15:08

6 714 Q. Now, if I can go to page 140 of that volume, it will
7 come up in front of you, you will see that Ms. Murphy
8 has typed out notes in relation to a home visit to the
9 Ms. D home which she carried out on the 12th December
10 2006. Sorry, it's page 183. And Ms. Murphy refers to 15:08
11 a number of matters she dealt with during the course of
12 that visit, and at number 16, which is at page 184 of
13 the materials:

14

15 *"Ms. Murphy explains to the Ds that she needed 15:09*
16 *information with regard to the alleged perpetrator.*
17 *Mr. D advised that it is Maurice McCabe, who was a*
18 *colleague of his."*

19

20 Then if we turn to the next page, at page 185, 15:09
21 Ms. Murphy says she explained she would need details of
22 his family.

23

24 *"He advised that his wife is Lorraine. He has four*
25 *children."* 15:09

26

27 And the names of those four children are redacted but
28 they appear on the original matter, and also their
29 ages. So do you think it was from that that you got

1 details of the McCabe children?

2 A. It's very likely, yes.

3 715 Q. Okay. Do you think you could have gotten them from any
4 other source?

5 A. No, I don't believe I did, and I have sight of the 15:10
6 intake record in respect of the children and I
7 reference reviewing Ms. D's file, so I expect it was
8 Ms. D's file and no other source.

9 716 Q. And no other source. I think on Ms. D's social work
10 file, the Garda statement wasn't contained on that, 15:10
11 isn't that correct? The statement Ms. D gave to the
12 guards wasn't on the social work file, that was on the
13 sexual assault file. Can you remember that?

14 A. No, I can't say for certain, but I accept if --

15 717 Q. Well, it appears to the Tribunal that that was held on 15:10
16 a totally separate file and not available to you when
17 you reviewed Ms. D's file, because that file was in
18 Monaghan, on your evidence?

19 A. Okay.

20 718 Q. Okay. So the information that allowed you to complete 15:10
21 four more intake records was taken from Ms. D's social
22 work file, which file had been closed in 2008. Does
23 that accord with your records of what you did?

24 A. Yes, that appears to be accurate.

25 719 Q. Okay. So if we could go back to the note of the 30th 15:11
26 April to Eileen Argue, you asked her, that's at page
27 2236 of the materials:
28
29 *"How do you want to proceed regarding the McCabe*

1 *children?"*

2

3 And if you could just read the following two sentences,
4 or three sentences in that.

5 A. *"Case direction from Eileen: Complete intake records 15:11*
6 *x4 on children."*

7 720 Q. Okay. First of all, in relation to work practices of
8 yours, do you have any idea why you recorded this in
9 writing?

10 A. I generally record case direction with team leader on 15:12
11 case notes for the file.

12 721 Q. Okay. Is that your usual practice and do you ever
13 divert from it?

14 A. That's my usual practice.

15 722 Q. Okay. Do you record other discussions in relation to 15:12
16 files or do you just record directions given to you in
17 relation to files?

18 A. I would endeavour to keep my notes as accurate and as
19 up-to-date as possible. Sometimes the busyness is all
20 that some conversations may not get recorded. But 15:12
21 significant conversations would. And particularly
22 around case direction. I like to reflect that on the
23 file.

24 723 Q. Okay. Before I go on to the intake records, can you
25 explain to me why intake records were created for 15:12
26 people who were adults at the time? It would appear
27 that two of the McCabe children were over 18 years of
28 age at the time.

29 A. I suppose I'm speculating as to Ms. Argue's view, but I

1 suspect she may have been erring on the side of caution
2 because I was indicating in my notes that I was
3 deducing based on another file of the children's ages.
4 Also perhaps she wanted to reflect that we were
5 considering other children in this case. 15:13

6 724 Q. I'm sorry, I don't understand that you were considering
7 other children, if you could explain that to me please?

8 A. Yeah. The practice in the Social Work Department in
9 2004 and since I had arrived in 2010 was that where
10 children were in contact with an alleged perpetrator of 15:13
11 sexual abuse and be that that it was a current concern
12 against the alleged perpetrator or be it it was a
13 retrospective concern intake records were opened in
14 respect of children living with that adult of concern.

15 725 Q. Okay. But if there weren't children living with the 15:14
16 adults, if they were adults living with the adult,
17 would an intake record be opened?

18 A. No.

19 726 Q. All right. So if I could then turn to page 2212 of the
20 2014 file. The first document that appears at that 15:14
21 file divider is an intake record and first of all you
22 will see in section A the report had been created on
23 the 30th April 2014, is that correct?

24 A. Yes.

25 727 Q. And this is a record I think that you accept you 15:14
26 created, is that correct?

27 A. Yes.

28 728 Q. And you did so having gone through the procedure with
29 Ms. Argue, is that --

1 A. Yes.

2 729 Q. Okay. Now if we can just go down to number 2 "*Details*
3 *of Child*" and if you could read it out, but not the
4 redactions if you understand?

5 A. Yes. "*First name: [Redacted]. Surname: McCabe.*" 15:15

6 730 Q. Then the address?

7 A. The address --

8 731 Q. Is written down?

9 A. Redacted?

10 732 Q. Well, if we could just maybe deal with it this way: 15:15
11 There is an address there --

12 **MR. MCDOWELL:** It is not a secret.

13 **CHAIRMAN:** I prefer it not be read out.

14 733 Q. **MS. LEADER:** Yes, without the -- if you can just, in
15 brackets, the part in brackets read it out please. 15:15

16 A. After the address in brackets: "*Note: This address is*
17 *taken from case records dating back to 2006.*"

18 734 Q. Okay. And the sex of the child is male, is that
19 correct?

20 A. Yes. 15:16

21 735 Q. Then in section 3 of the intake record if you would
22 just -- very general terms I think details of the
23 parents of the child are included there, is that
24 correct?

25 A. Yes. It identifies mother and father, yes. 15:16

26 736 Q. And their address is stated to be "*as above*", is that
27 correct?

28 A. Yes.

29 737 Q. Now the household composition is the second -- is

1 number 4 in that form and then underneath that we have
2 *"mother, father, sister, sister, sister"*?

3 A. Mm-hmm.

4 738 Q. And details insofar as the Christian names and surnames
5 of each of those people are set out, isn't that 15:16
6 correct?

7 A. That's correct.

8 739 Q. Now in relation to *"Additional Information"*, child 1
9 what we see there is *"date of birth not provided,*
10 *suspect [blank redacted] may be an adult now"*, is that 15:17
11 correct?

12 A. Yes.

13 740 Q. And then we have in relation to child number 2: *"Date*
14 *of birth not provided. Suspect [blank] is under 18 ."*
15 Then the third person: *"Date of birth not provided. 15:17*
16 *Suspect [redacted]. Maybe an adult now."* Is that
17 correct?

18 A. That's correct.

19 741 Q. And then if we go down to number 5, we have *"Details of*
20 *Laura Brophy"*, is that correct? 15:17

21 A. Yes.

22 742 Q. And then *"Reporter wishes to remain anonymous"*, *"no"* is
23 filled in there, is that correct?

24 A. That's correct.

25 743 Q. And then *"Discussed concern with parents/guardians"*, 15:17
26 *"no"* is ticked, is that correct?

27 A. Yes.

28 744 Q. And then where *"additional information"* there is a
29 space for it, there is no additional information

1 inserted there, is that correct?

2 A. Yes.

3 745 Q. And then it says *"Parents aware of report"* and the
4 question is: *"Are the child's parents/carers aware*
5 *that this concern is being reported to the HSE?"* 15:18
6 And *"no"* is ticked both in mother and father there, is
7 that correct?

8 A. That is correct.

9 746 Q. Now the details of the report are set out at number 7
10 of the intake record, is that correct? 15:18

11 A. That's correct.

12 747 Q. And you have put those details in there, is that right?

13 A. Yes.

14 748 Q. And if you could just read that out, please, for me.

15 A. *"Ms. D is attending counselling with Rian. During the* 15:18
16 *course of counselling she alleged that she experienced*
17 *sexual abuse in childhood, that this abuse involved*
18 *digital penetration, both vaginal and anal. This abuse*
19 *is alleged to have occurred on one occasion in 1998 to*
20 *1999. Ms. D reports being aged six or seven years old* 15:18
21 *at the time of this alleged abuse. Ms. D alleges that*
22 *the alleged perpetrator of this abuse threatened her*
23 *father if she said anything. Ms. D alleges that this*
24 *incident of alleged abuse occurred while she and her*
25 *parents were visiting the home of the alleged* 15:19
26 *perpetrator. Ms. D alleges that her parents and the*
27 *alleged perpetrator's wife were in another part of the*
28 *house, that she was playing hide and seek with the*
29 *alleged perpetrator and his daughters who were then*

1 *aged approximately three years and five years of age.*
2 *Ms. D identified the alleged perpetrator as Mr. Maurice*
3 *McCabe. Specific address for Mr. McCabe not provided.*
4 *Ms. Brophy reports that Mr. McCabe resides in County*
5 *Cavan. Mr. McCabe and Ms. D's father were work* 15:19
6 *colleagues, both members of An Garda Síochána. Ms. D*
7 *informed her parents of this alleged abuse when she was*
8 *aged 11 or 12 years of age. Ms. D made a statement to*
9 *An Garda Síochána at the time. A file was sent to the*
10 *DPP. However, no prosecution was directed."* 15:19

11
12 I then have a note:

13
14 *"In January 2007 this agency received a garda*
15 *notification reporting suspected sexual abuse. Alleged* 15:19
16 *victim, Ms. D, was referred to the CSA team. At the*
17 *time of assessment Mr. Maurice McCabe was alleged as*
18 *the alleged perpetrator. Please see Ms. D's file."*

19
20 And I identify the file number. 15:20

21
22 *"It appears that no contact was made by this agency*
23 *with Mr. McCabe, his wife or children at that time."*

24
25 749 Q. Okay. So in relation to what you have just read out, 15:20
26 it would appear that the first, second, third and
27 fourth paragraphs were identical to what you had filled
28 in, in the report to the Gardaí, the notification of
29 suspected child abuse, is that right?

1 A. That's correct.

2 750 Q. Okay. So where do you think you got those details
3 from?

4 A. From the written report. The first written report sent
5 in by Rian. 15:20

6 751 Q. Okay. Do you think you could have - I am almost afraid
7 to say it - cut and pasted that from the report that
8 you'd just completed in relation to the garda report?

9 A. Yes.

10 752 Q. Yes. It's exactly the same -- 15:20

11 A. Yeah.

12 753 Q. -- isn't that correct? Now if you could just, in
13 relation to the additional paragraph which is completed
14 on that, you say:

15 15:21

16 *"In January 2007 this agency received a garda*
17 *notification reporting suspected sexual abuse."*

18

19 So it must have been obvious to you and you must have
20 seen it from the Ms. D social work file that the Guards 15:21
21 had notified you in relation to the complaint made by
22 Ms. D.

23 A. Yes.

24 754 Q. Okay. And did that at that time make you stop and
25 think and maybe wonder why you were now notifying the 15:21
26 same thing to the Guards?

27 A. No, it didn't.

28 755 Q. Okay. And this was I think six years later, or seven
29 years later?

1 A. Yes.

2 756 Q. Do you have any explanation as to why it didn't make
3 you pause for thought at that stage?

4 A. When I reflect, I think my thought process was likely
5 that there was direction on the file to garda notify 15:22
6 and that whilst yes, there was a garda notification
7 some years previously the alleged victim was a child
8 then. This was now coming from a different source,
9 another professional, and it was now a retrospective
10 allegation. 15:22

11 757 Q. If we would just continue on then, you say there:
12
13 *"The alleged victim, Ms. D, was referred to the CSA
14 team at the time of the assessment. Mr. Maurice McCabe
15 was identified as the alleged perpetrator."* 15:22
16
17 And then you specifically refer to the Ms. D file, you
18 say:
19
20 *"Please see Ms. D file."* 15:22
21
22 And you give the file reference for that. Do you see
23 that there?

24 A. Yes.

25 758 Q. *"It appears that no contact was made by this agency 15:23
26 with Mr. McCabe, his wife or children at that time."*
27
28 So I think it's fair to say what you were referring to
29 there were the letters which Ms. Murphy wrote to

1 Ms. Tiernan back in 2007, is that correct?

2 A. Yes.

3 759 Q. Have you a memory of that or are you just --

4 A. No, I'm just basing my comment on what I am reading.

5 760 Q. Okay. Just if we could get that letter out in page 258 15:23

6 of the materials, it's in volume 1. We will see that

7 Rhona Murphy wrote to Mary O'Reilly on the 10th October

8 2007 drawing her attention to the fact that:

9

10 *"Mr. McCabe had not been met by the Social Work 15:24*

11 *Department as per our procedure in cases of alleged*

12 *child sexual abuse."*

13

14 Do you see that?

15 A. Yes. 15:24

16 761 Q. And in the previous page, at page 257, which will be in

17 front of you in a minute, it would appear that at a

18 meeting on the 24th April 2007 one of the actions

19 agreed was that Mr. McCabe would be met by a social

20 worker outside of the area. You see that? 15:24

21 A. Yes.

22 762 Q. So based on what you said in the intake record in

23 relation to Mr. McCabe's children, it would appear that

24 you had regard to the contents of the file as it was in

25 2007? 15:24

26 A. Yes.

27 763 Q. Is that a reasonable assumption, working assumption to

28 make?

29 A. That is reasonable, yes.

1 764 Q. Yes. Okay. And just interestingly enough, at the
2 meeting on the 24th April 2007 where the action was
3 agreed in relation to Mr. McCabe, Ms. Argue was present
4 at that meeting. You see that? She's second from the
5 list of people who were present. 15:25

6 A. Yes, I see that.

7 765 Q. And at that time she was working with you and you had
8 just had a discussion with her in relation to opening
9 intake records in relation to the children. So did
10 that in any way prompt you to discuss the matter with 15:25
11 her further, considering that the matter had already
12 been garda notified? Do you understand?

13 A. No. If you can --

14 766 Q. So, on the 24th April 2007 Ms. Argue was at a meeting
15 where it was agreed that Mr. McCabe would be met by 15:26
16 social workers?

17 A. Yes.

18 767 Q. The file was completed without that having been done --

19 A. Yes.

20 768 Q. -- or closed. You obviously knew that when you opened 15:26
21 the intake records in 2014 because you referred to it
22 in the intake records?

23 A. Yes.

24 769 Q. So, what I am asking you is: Did it occur to you to
25 discuss the matter with Ms. Argue further at that time 15:26
26 considering she had been part of the decision-making
27 process with regard to the Ms. D file in 2007?

28 A. No. And I can't be certain that I identified that
29 Ms. Argue had attended previous meetings in respect of

1 Mr. McCabe.

2 770 Q. Okay. And you don't think you brought it to her
3 attention at that time?

4 A. I don't believe so.

5 771 Q. Okay. Just I suppose I don't want to labour it too 15:26
6 much, but it would appear from that paragraph that you
7 considered the Ms. D file as it was closed in 2007. So
8 it would appear that considering a description of the
9 abuse was on that file, the probability is that you
10 read the description of the abuse on that file when you 15:27
11 were working on the file on the 30th April 2014. I
12 don't know if you wish to comment on that in any way.

13 A. I can't say for certain, but I did review the file. So
14 there is a probability that I did review that
15 information. 15:27

16 772 Q. Okay. But it doesn't seem to have featured at all when
17 you were completing the intake records in relation to
18 Mr. McCabe's children or the garda notification?

19 A. No.

20 773 Q. Now, if I just ask you, it may be a small thing, but in 15:27
21 the details of the report there had already been an
22 intake record created relating to Maurice McCabe. And
23 you didn't think of taking the description of the abuse
24 from that report, the report that had been created in
25 August 2013? 15:28

26 A. No. Again, that refers back to my comment that I would
27 follow the written report by the professional.

28 **CHAIRMAN:** There's one thing that I have a bit of a
29 problem with. Because maybe it can be explained to me

1 differently, but I'm reading the allegation that you
2 actually put in these forms as being an amalgamation of
3 the two of them. There's a reference to hide and seek,
4 for instance, but there's also a reference to digital
5 abuse, and I can't understand how the two of them can 15:28
6 stay together given that the descriptions of the two
7 forms of abuse are two different. In other words, it
8 seems to be a bit of this and a bit of that is put
9 together. We can come back to that at a later stage,
10 if you want, but I noted it at the time, I wrote the 15:29
11 word "amalgam" beside it and it may be that I am wrong
12 in that respect and I would like to be corrected if
13 possible. Maybe I will let Ms. Leader continue and you
14 can go back to that point if it seems to be correct.

15 774 Q. **MS. LEADER:** Just I suppose in relation to that line, 15:29
16 it may be slightly curious, but you will see that
17 "*Please see Ms. D file*" and the reference is given. So
18 who were you directing that comment to? Who was to see
19 the Ms. D file at that stage?

20 A. That was to reference that to the social work team 15:29
21 leader. These intake records were to be presented or
22 discussed at our referrals meeting and when a team
23 leader would be reviewing or reading out the intake
24 record she would be aware that there is another file
25 and in the event that the action at the referrals 15:30
26 meeting was to allocate this case to somebody, that the
27 next social worker would also be aware that there is
28 another file that perhaps they should be reviewing to
29 inform their assessment further.

1 **CHAIRMAN:** I'm sorry, Ms. Leader, I know you are
2 following a course and forgive me for thinking of
3 something.

4 **MS. LEADER:** It's okay.

5 **CHAIRMAN:** But if we just turn back, if you wouldn't 15:30
6 mind to 2213. Ms. Leader, as you were reading out that
7 description --

8 **MS. LEADER:** Yes.

9 **CHAIRMAN:** -- where you said -- it's at the bottom of
10 number 7, I hope it comes up on the screen there in 15:30
11 front of you, 2213.

12 **MS. LEADER:** Yes, 2213 that's in front of me.

13 **CHAIRMAN:** Yeah, let's go over and leave out what is
14 not so terribly important. *"Ms. D is attending*
15 *counselling with Rian and she alleged sexual abuse in* 15:31
16 *childhood, this involved digital penetration both*
17 *vaginal and anal, occurred on one occasion 1998, 1999."*
18 Now that has nothing to do with Ms. Y, because I don't
19 believe there was any dates given there. Certainly we
20 haven't. *"She was aged six or seven. Ms. D alleges* 15:31
21 *the alleged perpetrator of this abuse threatened her*
22 *father."* That is directly from Ms. Y. *"Alleges that*
23 *this incident of abuse occurred while she and her*
24 *parents were visiting the home of the alleged*
25 *perpetrator."* That is from Ms. D. *"Alleges that her* 15:31
26 *parents and alleged perpetrator's wife were in another*
27 *part of the house."* That is from Ms. D. *"And that she*
28 *was playing hide and seek --"* that is from Ms. D.
29 *"-- with the alleged perpetrator and his two daughters,*

1 *then aged approximately three and five years of age."*
2 So reading that, that seems to an amalgamation of the D
3 and the Y allegations together. In other words, it
4 looks as if you read both and then put them together as
5 a composite without noticing that the two sets of 15:32
6 allegations were totally different. But again, I may
7 be wrong. I may be reading too much into this.
8 A. You're correct. All of that information that you have
9 read out is contained in various sections of the first
10 report submitted by Rian. 15:32
11 **CHAIRMAN:** Then that had to mean that you read both but
12 were plucking a bit out of each, without noticing that
13 the names were different and that the allegations were
14 different. You've made an amalgam of both the D
15 allegations and the Y allegations, whereas what 15:32
16 Ms. Brophy did was cut and paste in using the correct
17 name of Ms. Y, the Ms. Y allegations, without at the
18 same time repeating in the same form the Ms. D
19 allegations.
20 A. Yes. I transcribed the detail in the first report from 15:32
21 Rian into the intake record and garda notification, not
22 noticing that in two places the surname of Ms. Y was
23 mentioned.
24 **CHAIRMAN:** No, but it's not that. It's the fact that
25 you have the Ms. Y allegations, digital and anal sexual 15:33
26 abuse, side-by-side with the hide and seek and visiting
27 the house, which had nothing to do with Ms. Y. It had
28 all to do with Ms. D.
29 A. Yes.

1 **CHAIRMAN:** So, that is an amalgamation of D and Y
2 together, it's a mish-mash, which seems to indicate,
3 and I may be wrong, that you read both and you thought
4 'well this is it, I am going to put the two of them
5 together'. 15:33

6 A. When you refer to that I read both, what are you
7 referring to?

8 **CHAIRMAN:** Well, if we just go through it again. I
9 think I am right in saying that what came in to your
10 department from Laura Brophy was Ms. Y. 15:33

11 A. Laura Brophy's report contained information pertaining
12 to Ms. Y and Ms. D.

13 **CHAIRMAN:** Yes.

14 A. In the one report.

15 **CHAIRMAN:** And is that the reason that you have an 15:34
16 amalgamation of the two of them?

17 A. Yes.

18 **CHAIRMAN:** Can you -- maybe in due course you can --

19 **MS. LEADER:** Yes, I can assist you.

20 **CHAIRMAN:** Where does that come from? 15:34

21 **MS. LEADER:** If we turn to the Laura Brophy report,
22 which is at page 2658, it appears in a number of
23 places.

24 **CHAIRMAN:** Yes, it does. Yes.

25 775 Q. **MS. LEADER:** It's page 2658. Is that in front of you? 15:34
26 In front of the witnesses at this time.

27 A. Mm-hmm.

28 776 Q. Yes?

29 A. Yeah.

1 777 Q. So if I can take you through it. The description of
2 the abuse which is on page 1 of that form says that
3 Ms. Y, we'll say, *"informed me that she suffered sexual*
4 *abuse in childhood. The abuse involved digital*
5 *penetration, both vaginal and anal. The alleged would* 15:34
6 *also threaten Ms. Y's father if she said anything."*
7 **CHAIRMAN:** Correct, yes.
8 **MS. LEADER:** So that is the description in relation to
9 Ms. Y.
10 A. Yes. 15:35
11 778 Q. If we turn over the page, which is page 2 of the
12 retrospective disclosure of abuse, Ms. Brophy explains
13 the context in which the alleged abuse took place,
14 which refers to the game of hide and seek, two
15 daughters and their approximate ages at the time. 15:35
16 **CHAIRMAN:** Yes.
17 **MS. LEADER:** And that is Ms. D.
18 A. Yes.
19 **CHAIRMAN:** And if we contrast that with 2213 that has
20 to mean that where the wrong name is mentioned it is in 15:35
21 fact changed to Ms. D's name.
22 **MS. LEADER:** Exactly, yes.
23 A. Thank's the oversight on my part.
24 **CHAIRMAN:** No, but you had to notice that, because you
25 changed the name. 15:35
26 A. I didn't notice.
27 **CHAIRMAN:** But the name is changed. And the names
28 aren't as similar, by the way, as Chamberlain and
29 Charleton.

1 A. Okay.

2 **CHAIRMAN:** One is an original Gaelic name, the other is
3 original English name, as I understand it.

4 A. I didn't notice the different surname in that initial
5 report from Rian. 15:36

6 **CHAIRMAN:** But you actually changed the surname.

7 A. I didn't notice the difference in the name. And the
8 first I became aware that there was a reference in two
9 places in the Rian report to a different surname was
10 during my investigators interview. 15:36

11 **CHAIRMAN:** Sorry, Ms. Leader, am I getting the wrong
12 end of the stick?

13 **MS. LEADER:** No, I don't think so. That's what we are
14 asking the witness to explain. I don't think the
15 witness can explain it. 15:36

16 **CHAIRMAN:** All right. It's possible that it's kind of
17 late and you're not getting it. Because I suppose the
18 penny is in a way dropping with me as well as your
19 attempts to understand - for which, thank you - but
20 when the Laura Brophy report was sent in incorrectly 15:36
21 there was two different names.

22 A. I'm aware of that now, yes.

23 **CHAIRMAN:** Yeah. Let's say Charleton and Collins.

24 A. Mm-hmm.

25 **CHAIRMAN:** When you drew it up you did an amalgamation 15:36
26 of the two on each side of the page.

27 A. Yes.

28 **CHAIRMAN:** What was on page 1 you added into page 2.
29 In other words, where did it happen? What was it?

1 Okay, I can understand that.

2 A. Yes.

3 **CHAIRMAN:** But you consistently used the correct name,
4 whereas in the Laura Brophy report there was two
5 different names. 15:37

6 A. Yes.

7 **CHAIRMAN:** So how did you manage to consistently use
8 the correct name when you're transposing across, it
9 seems by direct copying, it could have been by cut and
10 paste -- I don't know whether you had this 15:37
11 electronically or not.

12 A. Yes.

13 **CHAIRMAN:** So I'm just wondering, given that you were
14 actually transcribing this out, how did you change what
15 had in her instance been a wrong name into a right 15:37
16 name?

17 A. Yes. And my only explanation for that is: I did not
18 detect that in the body of that report there was a
19 reference to a different surname in two places.

20 **CHAIRMAN:** And if you add the two bits together the 15:37
21 name is mentioned four times -- one, two, three, four.
22 The first time it's Collins, second time it is Collins,
23 second time it is Charleton -- sorry, third time is
24 Charleton, fourth time is Charleton, to use a different
25 name. So Ms. Y, Ms. Y, Ms. D, Ms. D. 15:38

26 A. Mm-hmm.

27 **CHAIRMAN:** But in your report it becomes Ms. D, Ms. D,
28 Ms. D, Ms. D.

29 A. Yes. And that's because I totally overlooked

1 identifying that there was a reference in the initial
2 Rian report to another surname. That is an absolute
3 oversight on my part and human error.

4 **CHAIRMAN:** No, but you actually were looking at it and
5 typing it out and changing the name. 15:38

6 A. Yes. And again, all I can explain is that in the
7 busyness of working and doing that I overlooked
8 noticing that in the detail and in the body of the
9 report there was a reference to another name. The
10 outset of the Rian report clearly identifies Ms. D. 15:38
11 All I can say is that in going to elicit the detail my
12 focus was on obtaining the detail of the allegation and
13 overlooked that there was a reference to another
14 surname.

15 779 Q. **MS. LEADER:** Yes, thanks, Ms. Connolly. I suppose just 15:39
16 going back to page 2213, where you refer to the Ms. D
17 file and you say you put a reference there so as people
18 could get information from it, is that correct?

19 A. Yes. That if it was required that they would be aware
20 that there is another file that may be relevant to 15:39
21 review as part of any assessment, if an assessment was
22 actioned at the end of this intake record.

23 780 Q. But unfortunately even though you had gone through that
24 exercise, you didn't take from the Ms. D file at that
25 time that the description of the abuse that she had 15:39
26 given was different in a material respect, isn't that
27 right?

28 A. No, that's correct.

29 781 Q. Now that is an intake record in relation to one of the

1 McCabe children. If we just go to 2214, there's the
2 first page of an intake record in respect of a
3 different McCabe child, is that correct?

4 A. That's correct.

5 782 Q. And that is the same as the first intake, the partial 15:40
6 intake record except for the name of the child, is that
7 correct?

8 A. That's correct.

9 783 Q. Okay. And if we could turn to the next page, there's
10 the first page of an intake record created in relation 15:40
11 to a third McCabe child, is that correct?

12 A. That's correct.

13 784 Q. And that is the same as the first one, again except the
14 details reflect a different child, is that right?

15 A. That's correct. 15:40

16 785 Q. If we could go to page 2216 of the material, which is
17 the file, the fourth McCabe child, an intake record is
18 created, is that correct?

19 A. That's correct.

20 786 Q. And that is the same as the first partial record except 15:41
21 to reflect the details of the fourth child?

22 A. Yes.

23 787 Q. Now, we then have on page 2227, it would appear,
24 section B of an intake record, is that correct?

25 A. That's correct. 15:41

26 788 Q. I wonder could you explain, Ms. Connolly, how intake
27 records are created for families and what procedure was
28 followed in relation to this?

29 A. Yeah. It was accepted practice in the department that

1 where we received the same report on a sibling group
2 that we would complete the first page of the intake
3 record for each sibling and that the remaining three
4 pages of the document could simply be attached, in that
5 we didn't need to complete four separate records with 15:42
6 four individual pages attached.

7 789 Q. So on page 2217, that applies to the records in
8 relation to all of the McCabe children, at section 12
9 "*Known to Social Work Department*" and I think the no
10 box is ticked is there, that correct? 15:42

11 A. That's correct.

12 790 Q. And thereafter at "*welfare Concern Category*" we have
13 "*child who is*" and nothing is ticked, "*child with*"
14 nothing is ticked, "*parents, children of parents*"
15 nothing is ticked, "*family household, children of 15:42*
16 *families*" and underneath there we have "*other please*
17 *specify*" and ticked there would seem to be "*in contact*
18 *with alleged perpetrator of sexual abuse*"; is that
19 correct?

20 A. That's correct. 15:43

21 791 Q. I wonder could you explain, please, what that means?
22 A. What that relates to is that the information that the
23 Social Work Department is presented with in creating
24 this intake record, that it is understood that these
25 children are in contact with an alleged perpetrator of 15:43
26 sexual abuse.

27 792 Q. Okay. Then if we turn to page 2218, section 17
28 "*Reporter Acknowledgment*" and "*Has the reporter been*
29 *responded to?*" is left blank, isn't that correct?

1 A. That's correct.

2 793 Q. And number 18 "Agree Action" and what it says there is
3 "SW professional sign off" and your name appears, is
4 that correct?

5 A. That's correct. 15:43

6 794 Q. And that was on the 30th April 2014?

7 A. Yes.

8 795 Q. Is that correct?

9 A. Yes.

10 796 Q. What did you do with the file once you had completed 15:44
11 those intake records?

12 A. My routine practice at that time was to leave the
13 intake records and any relevant files in what was
14 called the referrals tray. That tray held all intake
15 records, all new intake records generated in the course 15:44
16 of the week and was brought to our weekly referrals
17 meeting which at that time took place on a Monday
18 morning and that was chaired by the social work team
19 leader. And at that meeting then all intake records
20 were actioned and that is where Section 16 on the form 15:44
21 is completed.

22 797 Q. Do you know was it discussed at a referrals meeting on
23 the following Monday?

24 A. On sight of this intake record --

25 798 Q. Yes. 15:44

26 A. -- it appears that it wasn't, because there's no action
27 recorded by the team leader and nor is it signed off by
28 the team leader.

29 799 Q. Can you assist the Tribunal as to why that was the case

1 if you had put it in the referrals tray?

2 A. I can't.

3 800 Q. Would you have had any responsibility in relation to it
4 being discussed at the referrals meeting?

5 A. No. At the end of the day on 30th April I was no 15:45
6 longer on duty. The records I believe I left in the
7 referrals tray and that would have been taken by the
8 team leader and the duty social worker on the following
9 Monday to the referrals meeting.

10 801 Q. Okay. And the team leader was Ms. Argue at that time? 15:45
11 A. Yes, that's correct.

12 802 Q. Okay. Do you know who the duty social worker was on
13 the following Monday?

14 A. No. We operated a weekly rota. I'm not certain who
15 was the social worker on duty that week. 15:45

16 803 Q. Okay. Could you explain to the Tribunal the practice
17 of opening intake records in relation to children and
18 if that has changed since you opened these intake
19 records in 2014?

20 A. Yeah. The practice of opening intake records on 15:46
21 children who are in contact with alleged perpetrators
22 of sexual abuse has changed as of December 2016.

23 804 Q. What was the practice in 2013 and how did it change in
24 2016?

25 A. The practice in 2013 was that intake records were 15:46
26 opened routinely on all children who were in contact
27 with an alleged perpetrator of sexual abuse. The
28 correspondence that I have received in 2016, and that's
29 on foot of me entering a new role with regard to a team

1 leader role, is that intake records are only opened on
2 children who are in contact with an alleged perpetrator
3 of sexual abuse where it is deemed that they are at
4 serious immediate risk. Otherwise intake records are
5 not opened until such time as the assessment with the 15:46
6 adult of concern is completed and only if the
7 assessment concludes that the allegation is founded is
8 intake records opened on the children.

9 805 Q. Do you know why the practice changed?
10 A. No. I don't. 15:47

11 806 Q. Thank you very much, Ms. Connolly.
12

13 **MR. MCDOWELL:** Does the Tribunal propose proceeding on
14 now?

15 **CHAIRMAN:** It's late. It's ten o'clock on Monday, 15:47
16 isn't it? Yes. There it is. Thanks very much.

17 **MR. MCDOWELL:** May it please the Court.
18 **CHAIRMAN:** Ten o'clock. Thank you.
19

20 **THE TRIBUNAL THEN ADJOURNED UNTIL MONDAY, 10TH JULY** 15:47
21 **2017 AT 10:00AM**
22
23
24
25
26
27
28
29

'**07** [1] - 87:7
'**await** [1] - 62:9
'**by** [1] - 103:1
'**Dear** [1] - 117:10
'**donkey**' [2] - 120:2
'**generally**' [1] - 116:10
'**Hello** [1] - 118:11
'**here** [1] - 81:15
'**look** [2] - 116:26, 116:29
'**notify** [1] - 63:27
'**or** [2] - 96:12
'**retrospective**' [1] - 146:18
'**should** [1] - 103:3
'**this** [1] - 64:5
'**well** [1] - 190:4
'**what** [1] - 100:14
'**you** [1] - 118:22

1

1 [11] - 34:6, 140:14, 152:9, 152:11, 152:12, 152:13, 171:16, 179:8, 184:6, 191:2, 192:28
10 [2] - 35:13, 35:18
100 [2] - 116:5, 116:8
107 [1] - 4:8
10:00AM [1] - 199:21
10th [2] - 24:16, 184:7
10TH [1] - 199:20
11 [4] - 138:26, 143:29, 163:8, 181:8
11/12 [1] - 154:8
111 [1] - 4:9
12 [8] - 8:15, 16:19, 21:17, 76:12, 141:19, 163:8, 181:8, 196:8
12/8/13 [1] - 109:1
121 [1] - 4:11
1216 [1] - 50:26
12:30 [1] - 164:29
12th [29] - 16:15, 16:22, 17:4, 20:21, 20:23, 20:28, 21:1, 22:8, 22:12, 29:24, 40:16, 40:27, 45:4, 53:26, 64:16, 77:15, 80:9, 81:10, 89:24, 99:18, 99:26, 104:1, 104:2, 104:16, 104:18, 131:26,

148:24, 174:9
1316 [2] - 50:24, 50:27
1325 [1] - 107:22
1327 [2] - 5:11, 41:14
1328 [1] - 8:10
1329 [1] - 8:14
1330 [1] - 13:12
1331 [2] - 18:3, 88:26
14 [2] - 11:4, 142:11
140 [1] - 174:6
15 [1] - 11:10
15/8/13 [1] - 32:19
15th [16] - 16:26, 18:3, 21:3, 21:8, 40:29, 41:1, 47:7, 81:8, 81:10, 88:27, 89:19, 105:1, 106:10, 131:26, 156:2
16 [5] - 1:6, 11:27, 119:8, 174:12, 197:20
1691 [1] - 94:4
17 [2] - 1:10, 196:27
178 [1] - 171:23
18 [6] - 13:12, 168:8, 169:3, 176:27, 179:14, 197:2
183 [1] - 174:10
184 [1] - 174:12
185 [1] - 174:20
1921 [1] - 1:10
1998 [6] - 56:3, 111:26, 119:6, 162:8, 180:19, 188:17
1999 [3] - 162:9, 180:20, 188:17
1st [2] - 40:8, 49:7

2

2 [11] - 2:25, 2:28, 2:30, 3:8, 3:18, 152:10, 152:11, 178:2, 179:13, 191:11, 192:28
20 [1] - 128:25
2004 [2] - 121:14, 177:9
2006 [13] - 53:18, 56:4, 56:29, 64:5, 77:23, 108:6, 110:5, 111:27, 115:13, 121:20, 172:9, 174:10, 178:17
2006/2007 [7] - 17:11, 26:15, 53:1, 64:17, 108:2, 144:8, 147:12
2007 [42] - 18:12,

18:24, 23:3, 24:16, 25:18, 56:4, 60:27, 64:6, 65:26, 77:23, 79:4, 85:22, 86:4, 86:18, 86:23, 86:24, 86:28, 87:26, 88:16, 88:25, 93:17, 93:21, 95:15, 112:20, 112:21, 113:1, 113:28, 114:5, 114:14, 122:13, 164:8, 170:5, 181:14, 182:16, 184:1, 184:8, 184:18, 184:25, 185:2, 185:14, 185:27, 186:7
2008 [2] - 71:22, 175:22
2009 [2] - 10:4
2010 [6] - 10:4, 75:16, 119:28, 121:23, 121:25, 177:9
2011 [8] - 10:4, 71:22, 72:21, 72:29, 73:2, 74:19, 74:21, 75:2
2012/2013 [1] - 116:20
2013 [61] - 9:12, 9:15, 15:12, 18:4, 26:16, 27:9, 31:23, 39:17, 40:10, 43:28, 45:6, 45:28, 46:5, 48:5, 52:24, 57:16, 65:26, 69:18, 69:19, 69:23, 69:25, 70:6, 71:5, 71:28, 72:7, 72:16, 86:3, 87:23, 87:27, 88:28, 89:19, 93:8, 99:18, 99:27, 113:27, 114:3, 114:9, 114:13, 116:3, 116:4, 116:7, 117:16, 117:19, 117:21, 118:2, 123:4, 127:7, 130:24, 133:7, 137:18, 148:24, 149:5, 155:8, 156:2, 161:29, 186:25, 198:23, 198:25
2013/beginning [1] - 74:13
2014 [56] - 1:4, 31:23, 45:19, 47:11, 48:4, 49:19, 69:18, 69:19, 72:7, 74:13, 95:28, 101:24, 117:18, 118:28, 121:25, 122:23, 122:25, 122:27,

123:21, 123:26, 124:7, 124:11, 124:14, 125:2, 125:12, 127:7, 130:11, 130:14, 130:28, 131:9, 131:16, 131:20, 131:24, 131:26, 132:12, 133:7, 133:11, 135:13, 140:26, 142:22, 144:6, 148:15, 148:19, 155:13, 156:17, 159:26, 164:29, 166:9, 177:20, 177:23, 185:21, 186:11, 197:6, 198:19
2015 [6] - 31:23, 69:10, 71:10, 74:28, 117:7, 117:17
2016 [5] - 31:23, 69:10, 198:22, 198:24, 198:28
2017 [5] - 1:6, 1:10, 1:18, 5:1, 199:21
21 [7] - 3:7, 9:29, 18:18, 55:12, 94:16, 138:19, 145:25
2189 [2] - 31:12, 32:6
2190 [3] - 32:10, 32:17, 133:16
2191 [2] - 39:29, 134:16
2192 [6] - 34:20, 76:4, 136:8, 136:26, 140:23, 143:25
2193 [2] - 139:29, 141:17
2194 [4] - 76:11, 139:13, 139:28, 141:18
2200 [1] - 36:26
2205 [1] - 38:27
221 [1] - 45:13
2210 [1] - 156:17
2212 [4] - 45:13, 45:16, 47:16, 177:19
2213 [5] - 188:6, 188:11, 188:12, 191:19, 194:16
2214 [1] - 195:1
2216 [1] - 195:16
2217 [1] - 196:7
2218 [1] - 196:27
2227 [1] - 195:23
2229 [5] - 157:7, 157:13, 160:18, 161:23, 165:25
2231 [1] - 164:26

2235 [1] - 165:26
2236 [1] - 175:27
2244 [1] - 155:12
229 [1] - 85:9
230 [5] - 29:1, 29:3, 50:8, 86:5, 86:6
231 [2] - 86:6, 86:15
235 [1] - 86:15
23rd [1] - 151:13
24-hour [1] - 14:3
2470 [1] - 108:23
2471 [1] - 109:15
24th [4] - 86:17, 184:18, 185:2, 185:14
257 [1] - 184:16
258 [1] - 184:5
2606 [1] - 121:5
2658 [2] - 190:22, 190:25
2659 [1] - 153:15
29th [1] - 117:7
2nd [1] - 60:27

3

3 [1] - 178:21
30/4/2014 [1] - 167:12
30th [17] - 45:19, 122:25, 124:11, 124:14, 130:11, 131:16, 132:11, 133:10, 140:26, 142:5, 149:12, 164:29, 175:25, 177:23, 186:11, 197:6, 198:5
32 [1] - 2:16
3658 [1] - 148:21

4

4 [4] - 1:18, 2:30, 141:7, 179:1
4th [2] - 73:2, 74:21

5

5 [3] - 4:4, 4:5, 179:19
50 [1] - 4:6
51% [1] - 116:10

6

624 [1] - 74:20

7

7 [8] - 2:17, 5:21,
21:16, 41:10, 138:13,
141:13, 180:9, 188:10
7TH [2] - 1:18, 5:1

8

8 [6] - 2:21, 26:28,
54:23, 139:15,
139:16, 141:1
85 [1] - 4:7
88 [1] - 2:25
8th [2] - 85:22, 172:9

9

9 [8] - 31:12, 31:21,
76:4, 121:4, 133:15,
140:1, 140:7, 140:10
9/8 [2] - 13:8, 13:14
964 [5] - 14:14, 16:8,
103:13, 103:27, 105:5
965 [2] - 103:20,
105:21
9:30 [1] - 16:2
9:30-10:00 [1] - 81:4
9s [1] - 140:11
9th [9] - 53:29,
62:27, 70:6, 72:29,
74:19, 137:18, 149:5,
156:1, 156:3

A

able [7] - 9:15, 24:2,
25:19, 33:9, 114:6,
115:14, 127:24
above-named [3] -
1:27, 79:6, 161:11
absence [1] - 63:7
absent [1] - 93:9
absolute [1] - 194:2
absolutely [13] -
7:15, 24:10, 42:15,
51:15, 74:26, 97:24,
130:22, 131:14,
133:9, 134:6, 153:7,
153:11, 160:12
abuse [126] - 7:5,
11:7, 11:13, 11:18,
11:25, 11:26, 14:14,
17:2, 18:11, 22:3,
53:1, 55:18, 55:22,
67:12, 67:13, 67:14,
67:15, 78:19, 79:28,

88:15, 94:14, 94:28,
95:2, 95:18, 105:8,
105:10, 106:6,
112:10, 118:10,
128:21, 128:25,
135:15, 136:12,
138:25, 138:29,
142:11, 143:28,
144:13, 144:15,
144:18, 145:2,
145:15, 145:16,
145:21, 146:17,
147:5, 147:22,
147:25, 148:20,
149:4, 149:16,
149:25, 150:17,
150:18, 150:19,
150:24, 151:3, 151:8,
151:15, 151:20,
151:21, 151:22,
152:11, 152:22,
152:27, 153:5,
153:27, 154:7,
157:11, 160:15,
161:12, 161:17,
161:20, 161:23,
162:6, 162:7, 162:10,
162:11, 162:13,
163:7, 166:12,
167:20, 170:1, 170:4,
170:7, 170:12,
171:10, 172:6,
173:13, 173:28,
177:11, 180:17,
180:18, 180:21,
180:22, 180:24,
181:7, 181:15,
181:29, 182:17,
184:12, 186:9,
186:10, 186:23,
187:5, 187:7, 188:15,
188:21, 188:23,
189:26, 191:2, 191:4,
191:12, 191:13,
194:25, 196:18,
196:26, 198:22,
198:27, 199:3
Abuse [2] - 87:21,
149:23
Abuse" [1] - 150:23
abuse" [1] - 109:17
abuse' [1] - 118:23
abuse) [1] - 18:18
abused [5] - 18:20,
55:13, 68:5, 94:17,
138:20
abused' [1] - 57:17
abuser [4] - 68:2,
68:14, 153:13
acceded [1] - 86:26

accept [16] - 6:13,
53:16, 67:23, 97:20,
98:11, 131:14, 132:1,
132:10, 132:14,
145:17, 148:13,
150:6, 152:4, 175:14,
177:25
acceptance [1] -
125:28
accepted [3] - 6:27,
6:28, 195:29
accepting [2] -
125:7, 151:29
access [14] - 9:13,
9:16, 9:17, 39:10,
42:28, 61:16, 69:18,
87:10, 88:18, 125:4,
127:15, 128:24,
154:2, 170:15
accord [2] - 173:8,
175:23
accordance [4] -
88:8, 93:18, 164:10,
164:12
according [2] -
74:20, 124:13
accords [1] - 173:7
account [10] - 7:3,
17:1, 26:26, 65:15,
67:9, 80:15, 133:2,
133:3, 138:10, 143:12
Accounts [1] -
130:29
accounts [2] -
132:28, 136:4
accurate [1] - 153:6
accuracy [6] - 14:25,
15:9, 47:21, 138:10,
175:24, 176:18
accuses [1] - 147:1
achieve [2] - 147:27,
147:29
acknowledge [4] -
10:20, 10:21, 87:12,
119:23
acknowledged [7] -
62:7, 84:14, 91:10,
93:22, 95:17, 96:24,
102:12
acknowledgement
[5] - 38:26, 39:4, 39:8,
40:19, 44:22
acknowledging [1] -
17:26
acknowledgment [1]
- 196:28
act [2] - 41:26, 57:22
ACT [2] - 1:4, 1:9
acting [2] - 157:21,
163:26

Action [1] - 142:17
action [14] - 1:28,
11:27, 14:2, 14:4,
14:7, 34:27, 35:26,
83:22, 125:24,
144:27, 185:2,
187:25, 197:2, 197:26
actioned [3] -
144:20, 194:22,
197:20
actions [4] - 36:1,
47:10, 79:19, 184:18
active [1] - 154:23
actively [1] - 70:2
actual [10] - 34:17,
47:27, 97:28, 119:28,
124:2, 124:29,
127:18, 140:2, 150:7,
160:21
add [4] - 13:27,
148:16, 152:20,
193:20
added [1] - 192:28
addicted [1] - 111:21
addiction [1] - 68:7
addition [1] - 43:27
additional [6] -
141:29, 154:17,
179:8, 179:28,
179:29, 182:13
address [23] - 7:23,
32:29, 33:6, 33:10,
97:5, 109:11, 115:6,
137:24, 149:7, 161:6,
162:25, 163:27,
165:17, 167:3, 167:9,
171:4, 178:6, 178:7,
178:11, 178:16,
178:26, 181:3
addressed [9] - 18:4,
52:21, 80:5, 82:29,
85:16, 103:23,
103:26, 104:5, 145:4
addressee [2] -
90:11, 91:1
addressing [1] -
90:29
ADJOURNED [2] -
120:17, 199:20
admin [11] - 9:16,
17:5, 21:5, 39:2, 39:5,
41:8, 42:20, 42:25,
42:26, 43:3, 81:1
administration [3] -
73:9, 137:11, 160:25
administrative [1] -
29:18
administrator [7] -
17:6, 19:22, 20:27,
32:27, 81:2, 90:13,

106:11
adult [35] - 9:29,
10:6, 10:7, 10:10,
11:24, 18:12, 18:17,
18:20, 22:2, 76:23,
76:26, 76:28, 77:6,
77:9, 78:13, 94:13,
94:18, 112:8, 114:16,
134:7, 134:8, 146:18,
146:22, 161:4,
166:12, 166:13,
170:24, 177:14,
177:16, 179:10,
179:16, 199:6
Adult [1] - 137:21
adult's [2] - 133:25,
133:26
adults [5] - 76:23,
77:8, 176:26, 177:16
advance [2] -
125:10, 126:1
advice [1] - 143:21
advise [1] - 134:12
advised [4] - 55:7,
138:18, 174:17,
174:24
affairs [2] - 74:24,
76:1
affect [1] - 7:6
afforded [1] - 20:16
afraid [3] - 105:4,
145:23, 182:6
AFTER [1] - 121:1
afternoon [2] - 8:1,
8:4
afterwards [4] -
60:22, 60:23, 80:2,
95:24
age [8] - 153:23,
162:20, 163:8,
166:26, 176:28,
181:1, 181:8, 189:1
aged [12] - 18:18,
94:16, 162:9, 162:19,
163:8, 168:6, 168:8,
180:20, 181:1, 181:8,
188:20, 189:1
Agency [4] - 30:28,
121:21, 161:29,
163:28
agency [9] - 48:13,
90:21, 112:25,
112:27, 163:27,
181:14, 181:22,
182:16, 183:25
ages [3] - 174:29,
177:3, 191:15
ago [3] - 85:21,
128:26, 172:17
agree [7] - 61:22,

89:29, 90:7, 98:7,
100:21, 101:1, 197:2
agreed [15] - 14:3,
14:4, 35:26, 36:1,
41:16, 46:28, 54:12,
99:24, 102:6, 102:15,
102:22, 139:8,
184:19, 185:3, 185:15
agrees [1] - 96:27
ahead [1] - 134:26
ALAN [1] - 2:29
alarm [1] - 6:22
alert [2] - 134:3,
155:5
alerted [1] - 10:24
alike [1] - 105:23
allegation [81] -
14:21, 15:9, 17:10,
17:29, 20:17, 20:18,
23:28, 25:10, 25:11,
27:16, 27:27, 35:2,
47:2, 47:3, 47:13,
47:28, 48:8, 49:26,
52:29, 54:6, 54:10,
54:17, 54:22, 54:26,
55:27, 56:2, 56:11,
56:29, 58:5, 58:17,
58:23, 60:28, 64:5,
65:16, 65:22, 67:6,
68:29, 76:28, 79:11,
80:10, 80:11, 80:15,
80:22, 80:26, 83:14,
83:29, 84:2, 88:20,
95:8, 98:1, 98:4,
108:4, 108:5, 108:12,
109:29, 110:5,
110:20, 111:25,
112:5, 114:4, 114:27,
115:27, 116:5,
144:13, 144:17,
145:2, 145:14,
146:19, 147:22,
170:4, 172:1, 172:6,
172:11, 172:25,
173:5, 173:24,
173:27, 183:10,
187:1, 194:12, 199:7
allegations [40] -
18:11, 18:24, 23:3,
30:18, 61:5, 68:4,
68:21, 70:23, 72:20,
80:21, 89:17, 94:20,
95:12, 95:13, 111:1,
114:11, 115:28,
117:8, 117:14,
117:15, 118:10,
131:22, 132:6,
144:10, 146:17,
146:20, 147:24,
157:18, 166:10,
166:11, 169:17,
189:3, 189:6, 189:13,
189:15, 189:17,
189:19, 189:25
alleged [98] - 6:8,
18:25, 19:1, 20:15,
23:4, 24:4, 26:9, 28:8,
33:15, 51:4, 53:5,
56:11, 66:12, 67:5,
67:8, 68:2, 68:14,
73:12, 77:20, 78:25,
88:14, 94:28, 95:2,
96:15, 97:22, 105:12,
105:27, 105:28,
106:6, 113:14,
113:24, 114:7,
115:28, 116:15,
116:17, 116:20,
136:2, 147:8, 148:4,
148:5, 148:9, 149:16,
149:26, 150:27,
151:8, 152:22,
153:13, 153:20,
153:21, 154:1,
155:20, 161:5, 162:5,
162:8, 162:10,
162:11, 162:13,
162:14, 162:16,
162:18, 162:24,
163:7, 166:13,
166:25, 168:13,
168:24, 174:16,
177:10, 177:12,
180:16, 180:19,
180:21, 180:22,
180:24, 180:25,
180:27, 180:29,
181:2, 181:7, 181:15,
181:17, 181:18,
183:7, 183:13,
183:15, 184:11,
188:15, 188:21,
188:24, 188:26,
188:29, 191:5,
191:13, 196:18,
196:25, 198:21,
198:27, 199:2
alleged's [1] -
153:18
allegedly [2] - 56:3,
172:22
alleges [9] - 162:10,
162:12, 162:15,
180:21, 180:23,
180:26, 188:20,
188:22, 188:25
allocate [5] - 13:5,
43:24, 43:29, 66:21,
187:26
allocated [23] - 6:20,
33:19, 33:25, 42:19,
42:24, 43:8, 43:9,
43:11, 43:18, 43:20,
44:2, 66:18, 70:3,
84:12, 96:4, 110:26,
114:29, 116:21,
126:16, 127:3, 128:9,
173:17
allocating [1] - 6:25
allocation [18] -
6:10, 6:16, 6:29,
12:22, 13:4, 13:7,
13:18, 21:14, 28:21,
30:22, 50:7, 50:9,
96:3, 106:19, 109:18,
126:15, 129:12,
142:26
allocation" [1] -
59:15
allowed [5] - 43:24,
57:5, 66:20, 129:7,
175:20
allows [1] - 126:22
almost [2] - 90:4,
182:6
alter [1] - 63:1
altered [1] - 99:25
altering [1] - 99:22
amalgam [2] -
187:11, 189:14
amalgamation [5] -
187:2, 189:2, 190:1,
190:16, 192:25
amend [1] - 28:1
amended [2] - 62:8,
156:8
anal [8] - 105:11,
118:23, 149:26,
162:7, 180:18,
188:17, 189:25, 191:5
AND [5] - 1:4, 1:5,
1:9, 3:20, 3:22
anonymous [1] -
179:22
answer [17] - 25:20,
26:5, 27:19, 27:23,
52:4, 57:3, 60:9,
63:17, 81:25, 81:28,
92:11, 100:9, 100:16,
102:26, 126:20,
127:24, 158:17
answered [4] -
83:16, 93:14, 96:17,
116:25
answering [1] -
93:22
ANTHONY [1] - 2:26
anxiety [1] - 53:3
anxious [1] - 28:25
anything" [1] -
150:28
anyway [1] - 99:9
apart [1] - 79:21
apologies [1] -
147:15
apparent [2] - 60:26,
169:12
appear [31] - 8:11,
16:19, 33:29, 45:7,
45:8, 74:1, 123:20,
125:13, 138:9, 145:7,
148:23, 155:17,
156:11, 157:14,
165:3, 167:18,
170:17, 171:2,
171:17, 172:2, 172:3,
172:24, 173:27,
174:28, 176:26,
181:26, 184:17,
184:23, 186:6, 186:8,
195:23
APPEARANCES [1] -
2:1
appeared [9] - 23:29,
25:22, 25:29, 45:15,
61:17, 130:29, 142:5,
148:18, 151:20
appearing [2] -
45:13, 50:22
appellant [1] - 3:30
appendix [2] - 35:12,
35:18
Appendix [1] - 34:6
applies [1] - 196:7
applying [2] -
113:27, 114:3
appointing [1] -
131:21
appointment [1] -
118:16
appointments [2] -
125:6, 125:7
appreciate [10] -
19:2, 28:9, 48:23,
92:16, 96:9, 97:17,
114:14, 130:13,
132:9, 150:3
appreciating [3] -
47:18, 47:19, 74:7
approach [1] -
146:22
appropriate [10] -
7:16, 9:22, 9:25,
25:15, 36:8, 43:28,
62:29, 97:13, 136:19,
164:22
approval [1] - 165:22
approximate [1] -
191:15
April [39] - 45:19,
47:11, 122:23,
122:25, 122:26,
123:3, 123:21,
123:25, 124:7,
124:11, 124:14,
125:12, 130:11,
130:14, 131:16,
131:24, 131:26,
132:11, 133:7,
133:10, 135:13,
140:26, 142:5,
142:22, 148:18,
149:13, 155:13,
157:2, 159:26,
164:29, 175:26,
177:23, 184:18,
185:2, 185:14,
186:11, 197:6, 198:5
archives [1] - 119:27
area [5] - 7:22,
70:24, 88:17, 134:10,
184:20
arena [1] - 74:14
Argue [4] - 157:21,
157:28, 163:26,
175:26
argue [14] - 52:5,
159:1, 159:27, 160:2,
165:18, 166:8,
167:12, 167:13,
177:29, 185:3,
185:14, 185:25,
185:29, 198:10
argue's [1] - 176:29
arise [1] - 14:5
arising [1] - 22:22
arose [5] - 44:13,
61:23, 83:27, 125:9,
125:29
ARRAN [1] - 2:16
arrange [4] - 19:2,
27:13, 28:10, 96:10
arranged [2] -
101:10, 116:14
arrangements [1] -
35:29
arranging [1] - 17:29
arrival [1] - 41:21
arrive [1] - 81:3
arrived [3] - 22:8,
22:14, 177:9
ARTHUR [1] - 2:27
articles [1] - 131:25
AS [6] - 5:1, 5:8,
50:19, 85:2, 107:20,
121:1
ascertain [12] -
25:12, 33:10, 52:15,
54:8, 61:20, 65:20,
66:13, 67:6, 67:9,

83:13, 112:5, 142:3
aspect [2] - 87:13, 112:2
assault [4] - 47:27, 56:5, 166:25, 175:13
assess [4] - 25:13, 66:13, 96:28, 114:19
assessed [2] - 112:7, 113:24
Assessment [1] - 87:21
assessment [29] - 25:4, 26:12, 26:17, 30:17, 30:18, 30:22, 33:14, 34:12, 34:14, 59:14, 66:26, 66:27, 67:7, 103:9, 110:26, 110:28, 110:29, 112:14, 122:2, 122:3, 124:10, 173:17, 181:17, 183:14, 187:29, 194:21, 199:5, 199:7
assessments [1] - 125:26
assigned [2] - 37:1, 164:17
assist [7] - 39:19, 87:15, 96:22, 126:14, 171:25, 190:19, 197:29
assistance [2] - 19:9, 140:6
assistance' [1] - 96:16
assistant [3] - 73:13, 74:17, 85:13
ASSOCIATED [1] - 3:25
assume [11] - 19:27, 39:22, 41:25, 44:2, 47:22, 54:20, 59:24, 60:10, 64:4, 66:8, 81:18
assumed [6] - 10:9, 65:11, 72:11, 82:14, 104:21, 151:14
assuming [12] - 8:26, 9:7, 19:19, 22:13, 22:16, 22:18, 29:18, 41:19, 44:10, 76:25, 81:11, 81:24
assumption [3] - 42:22, 184:27
AT [1] - 199:21
at [1] - 96:11
attached [11] - 36:8, 37:21, 86:21, 97:14, 104:23, 135:5, 157:13, 158:13,

165:3, 196:4, 196:6
attachment [1] - 165:11
attempt [4] - 69:6, 69:17, 99:21, 102:8
attempts [2] - 84:4, 192:19
attend [1] - 91:8
attendance [1] - 37:24
attended [2] - 37:23, 185:29
attending [7] - 112:8, 112:9, 112:11, 114:16, 162:4, 180:15, 188:14
attention [5] - 81:6, 104:12, 173:18, 184:8, 186:3
August [25] - 15:12, 16:16, 18:4, 29:24, 45:4, 47:7, 62:28, 70:6, 80:9, 88:27, 89:19, 96:1, 99:18, 99:27, 104:2, 104:19, 123:4, 137:18, 148:24, 149:5, 156:2, 156:3, 161:29, 186:25
authorised [2] - 50:14, 110:2
automatic [1] - 63:25
available [9] - 5:26, 16:5, 40:25, 68:27, 69:28, 124:26, 133:16, 145:8, 175:16
await [9] - 12:22, 13:4, 13:18, 21:13, 41:21, 59:14, 59:15, 109:18, 142:26
awaiting [8] - 13:7, 28:20, 30:22, 50:7, 50:9, 96:3, 106:19, 126:15
aware [67] - 26:11, 26:23, 29:11, 32:2, 46:4, 50:7, 52:25, 53:6, 53:7, 53:8, 58:17, 58:23, 58:27, 60:4, 60:5, 64:24, 65:17, 70:22, 70:26, 71:1, 71:16, 71:22, 71:25, 71:27, 72:3, 78:14, 78:25, 89:1, 89:5, 89:8, 89:9, 89:16, 93:5, 101:27, 108:3, 108:11, 119:25, 122:7, 123:18, 126:13, 130:17, 130:23, 130:25, 131:4,

131:18, 134:14, 134:29, 141:8, 143:10, 145:18, 146:14, 146:16, 146:20, 151:11, 151:15, 151:25, 158:5, 166:12, 169:26, 180:3, 180:4, 187:24, 187:27, 192:8, 192:22, 194:19

B

babies [1] - 111:21
Bachelor [1] - 121:14
background [1] - 117:27
bad [2] - 129:1, 129:9
Baillieboro [7] - 55:16, 73:9, 73:20, 73:22, 138:23, 154:21, 155:3
Barr [4] - 102:17, 102:23, 117:7, 119:5
barristers [1] - 50:22
based [32] - 6:19, 8:18, 17:7, 22:23, 30:6, 30:8, 33:2, 33:8, 33:11, 49:4, 65:4, 65:6, 76:15, 108:10, 110:8, 117:17, 119:5, 122:6, 124:4, 126:19, 126:21, 126:29, 127:4, 127:6, 127:9, 130:25, 138:3, 160:12, 163:15, 168:9, 177:3, 184:22
Based [1] - 167:26
basing [2] - 57:6, 184:4
basis [13] - 27:19, 30:11, 48:7, 53:25, 65:1, 94:26, 94:27, 110:4, 119:17, 122:4, 132:21, 132:22, 132:23
BAXTER [1] - 3:22
BE [1] - 5:7
became [10] - 70:26, 70:29, 72:6, 74:13, 108:3, 130:23, 134:14, 151:11, 158:5, 192:8
becomes [1] - 193:27
BEEN [1] - 121:7
beforehand [2] -

16:3, 33:21
beg [2] - 93:2, 123:5
beginning [1] - 86:24
behalf [8] - 17:7, 19:21, 20:1, 28:16, 39:5, 53:3, 95:25, 106:12
behind [7] - 34:17, 35:7, 37:13, 39:23, 39:29, 40:4, 75:6
belief [3] - 48:4, 133:14, 152:15
believes [1] - 62:21
bell [3] - 71:29, 75:25, 75:26
BELL [1] - 3:13
bells [3] - 6:22, 70:7, 130:20
belonging [1] - 169:29
below [1] - 142:23
benefit [3] - 11:1, 31:14, 54:29
bent [1] - 172:20
beside [2] - 139:22, 187:11
best [5] - 96:23, 117:23, 123:23, 127:17, 130:6
between [8] - 22:12, 35:28, 66:9, 66:10, 71:22, 81:10, 148:1, 159:22
big [4] - 32:11, 32:12, 107:8, 117:13
birth [4] - 161:6, 179:9, 179:14, 179:15
bit [12] - 5:18, 45:23, 54:28, 58:18, 74:8, 89:26, 121:17, 125:19, 186:28, 187:8, 189:12
bits [3] - 140:17, 140:19, 193:20
BL [10] - 2:7, 2:9, 2:15, 2:19, 3:1, 3:5, 3:11, 3:13, 3:16, 3:21
blame [2] - 97:13
blamed [1] - 96:16
blank [8] - 142:10, 155:9, 164:1, 165:29, 168:1, 179:10, 179:14, 196:29
blank [1] - 168:1
blanked [1] - 105:16
blanked-out [1] - 105:16
blocked [3] - 55:18, 138:25, 143:28
blue [6] - 32:9,

32:11, 32:12, 34:23, 35:2, 108:24
body [7] - 10:22, 70:14, 152:18, 163:12, 165:7, 193:18, 194:8
bombshell [2] - 119:19, 119:22
book [5] - 13:24, 31:12, 50:24, 108:24, 109:24
born [4] - 68:6, 111:21, 168:12, 168:24
bottom [8] - 16:15, 41:14, 57:24, 59:17, 103:26, 168:16, 168:27, 188:9
bound [1] - 100:9
box [15] - 8:21, 10:17, 11:4, 11:5, 11:9, 12:14, 12:15, 13:12, 59:9, 77:19, 109:11, 142:18, 161:19, 163:29, 196:10
boxes [3] - 11:9, 11:21, 11:28
brackets [3] - 178:15, 178:16
breach [1] - 73:12
break [1] - 31:21
breaking [1] - 132:25
BREFFNI [1] - 2:15
BRIAN [1] - 2:29
Briege [19] - 8:27, 9:2, 9:15, 10:3, 10:9, 15:7, 17:9, 30:9, 46:15, 56:20, 57:3, 57:6, 58:6, 58:29, 60:7, 60:14, 109:5, 149:2, 166:19
bring [4] - 52:6, 76:11, 81:14, 148:22
bringing [4] - 13:22, 13:28, 51:24, 52:1
broad [2] - 87:9, 108:12
broadly [1] - 89:9
Brophy [51] - 14:14, 14:25, 15:12, 17:8, 22:11, 30:9, 33:12, 38:26, 40:6, 40:19, 44:22, 44:29, 46:15, 47:1, 52:10, 53:9, 54:21, 56:2, 56:12, 56:18, 56:21, 56:25, 58:5, 58:13, 58:15, 58:19, 79:26, 81:15, 82:2, 99:15, 99:28,

101:21, 102:16,
103:15, 103:21,
109:13, 135:7,
135:27, 145:9,
161:27, 162:26,
166:20, 173:14,
179:20, 181:4,
189:16, 190:10,
190:21, 191:12,
192:20, 193:4
Brophy's [29] - 16:8,
29:20, 29:22, 29:29,
30:7, 39:20, 40:15,
40:22, 42:6, 42:8,
42:13, 43:27, 44:19,
46:2, 46:8, 48:26,
49:8, 52:26, 54:23,
101:2, 102:10,
109:28, 136:11,
148:19, 173:8,
173:29, 190:11
brother [1] - 172:18
brought [11] - 21:10,
76:2, 79:14, 79:16,
83:25, 93:29, 146:12,
170:18, 172:20,
186:2, 197:16
bruising [1] - 111:21
BUCKLEY [1] - 2:9
bullet [6] - 35:23,
35:25, 35:27, 36:1,
37:4, 37:26
bullet-point [1] -
35:23
bundle [1] - 81:11
business [2] -
107:29, 110:8
busy [3] - 44:14,
82:16
busyness [3] -
152:15, 176:19, 194:7
buy [1] - 132:21
BY [29] - 1:5, 1:8,
2:10, 2:15, 2:19, 2:23,
2:27, 3:1, 3:6, 3:11,
3:14, 3:16, 3:22, 4:5,
4:6, 4:7, 4:8, 4:9,
4:11, 5:7, 50:19,
84:23, 85:1, 107:13,
107:19, 111:9,
111:11, 121:8
BYRNE [1] - 2:24
Byrne/McGinn [3] -
73:4, 74:16, 74:18

C

cabinet [24] - 42:25,
43:10, 123:21,
123:25, 125:21,

125:22, 126:1, 126:7,
127:2, 127:22,
127:27, 129:8,
129:21, 130:4, 130:8,
130:21, 132:3,
133:13, 142:29,
156:19, 157:19,
157:29, 159:26
cabinets [1] - 128:29
cannot [1] - 104:28
canvass [1] - 88:14
canvassing [1] -
157:26
CAOIMHE [1] - 3:14
capacity [4] - 43:24,
66:20, 71:21, 97:9
car [2] - 132:20,
132:24
Care [1] - 122:1
care [4] - 37:20,
38:17, 39:9, 39:10
carried [4] - 47:12,
97:29, 110:23, 174:9
carry [2] - 66:27,
67:6
carrying [1] - 68:15
CARTHAGE [1] - 3:6
Case [1] - 37:19
case [95] - 6:16, 8:4,
8:6, 9:23, 10:3, 18:29,
20:12, 20:14, 22:22,
24:12, 25:7, 25:17,
26:16, 27:8, 28:7,
28:20, 30:20, 33:19,
33:22, 33:24, 35:10,
35:11, 35:26, 36:29,
37:11, 37:12, 38:16,
38:18, 39:12, 41:6,
43:15, 43:24, 43:25,
44:13, 44:25, 46:9,
51:11, 57:7, 57:10,
59:25, 66:11, 66:21,
69:3, 70:1, 70:2, 70:4,
78:10, 79:10, 83:7,
84:10, 90:20, 91:9,
91:24, 92:28, 93:6,
96:8, 96:14, 96:19,
97:16, 97:17, 97:18,
98:22, 98:24, 100:10,
100:12, 100:16,
102:4, 106:29,
110:25, 111:20,
113:22, 113:25,
114:10, 114:29,
116:12, 116:19,
117:14, 119:4,
127:17, 129:21,
134:14, 137:13,
155:19, 169:23,
173:17, 176:5,

176:10, 176:11,
176:22, 177:5,
178:17, 187:26,
197:29
cases [55] - 27:14,
27:15, 28:29, 29:2,
29:3, 29:5, 30:21,
36:8, 43:11, 43:22,
44:13, 50:8, 50:11,
64:22, 67:12, 67:27,
68:4, 68:6, 68:8, 68:9,
75:28, 82:17, 96:3,
103:6, 106:27,
107:10, 111:14,
111:23, 113:26,
114:8, 114:26,
115:24, 116:5,
116:16, 116:18,
126:14, 126:15,
126:16, 126:17,
127:7, 128:5, 128:7,
128:9, 129:10,
129:11, 129:13,
129:14, 129:16,
184:11
CASTLE [1] - 1:17
categorical [1] -
131:15
categorically [3] -
104:23, 118:3, 158:17
categories [1] -
129:16
categorisation [3] -
126:22, 126:26,
126:27
categorise [1] -
128:27
categorised [1] -
127:9
category [8] - 11:10,
11:13, 11:14, 11:16,
11:18, 11:25, 12:2,
196:12
Category [1] -
142:14
caused [1] - 10:18
caution [1] - 177:1
Cavan [23] - 7:12,
7:18, 7:22, 7:26, 7:27,
8:2, 16:14, 16:15,
19:7, 48:14, 71:13,
71:25, 73:3, 75:19,
108:16, 121:24,
121:25, 122:14,
153:27, 162:27,
163:28, 170:11, 181:5
Cavan' [1] - 96:12
Cavan-Monaghan
[6] - 71:13, 71:25,
73:3, 75:19, 121:24,

122:14
ceased [1] - 87:25
central [1] - 42:19
CERTAIN [1] - 1:4
certain [23] - 9:12,
21:24, 21:25, 29:28,
41:1, 59:19, 63:15,
72:1, 79:19, 81:12,
85:5, 134:9, 134:25,
135:17, 157:1,
165:20, 173:3,
173:21, 175:14,
185:28, 186:13,
198:14
certainly [19] - 6:11,
7:1, 21:9, 29:12,
42:10, 48:4, 49:8,
49:21, 59:25, 67:23,
68:9, 72:16, 87:24,
92:15, 97:25, 114:10,
116:22, 119:28,
188:19
certainties [1] -
22:17
certainty [3] - 116:8,
118:26, 142:7
certify [1] - 1:25
cetera [1] - 114:26
chair [1] - 172:21
chaired [1] - 197:18
chairman [7] - 31:14,
45:25, 46:28, 47:15,
48:2, 73:29, 96:21
Chairman [18] - 75:9,
84:28, 90:27, 91:23,
92:5, 92:15, 93:4,
94:4, 97:10, 100:13,
100:19, 102:7, 105:7,
105:13, 107:15,
107:16, 109:27, 136:3
CHAIRMAN [176] -
4:9, 14:16, 14:23,
15:1, 15:6, 15:11,
15:14, 15:19, 15:23,
15:25, 30:25, 30:28,
35:1, 35:5, 44:27,
45:2, 45:5, 45:7,
45:10, 45:18, 45:22,
46:1, 46:7, 46:12,
46:15, 46:17, 46:26,
47:5, 47:8, 47:14,
47:18, 48:9, 48:13,
48:15, 48:17, 48:22,
54:27, 55:28, 56:7,
57:12, 58:10, 63:16,
64:1, 64:4, 72:5,
72:14, 72:28, 74:3,
74:7, 74:27, 75:12,
84:25, 90:16, 90:20,
91:2, 91:13, 91:27,

92:2, 92:8, 92:10,
92:20, 93:12, 93:28,
96:7, 97:2, 97:16,
100:7, 100:14,
100:26, 102:26,
102:29, 103:8, 105:4,
105:8, 105:14,
105:19, 111:11,
111:13, 111:24,
112:15, 112:20,
112:22, 112:25,
113:5, 113:7, 113:12,
113:19, 113:29,
114:2, 114:15,
114:20, 115:1, 115:3,
115:10, 115:12,
115:18, 115:20,
115:23, 116:1,
116:10, 116:16,
116:19, 116:24,
117:5, 117:22,
117:26, 118:8,
118:18, 119:1, 119:4,
119:8, 119:14,
119:21, 119:24,
120:11, 120:13,
120:15, 128:11,
128:13, 128:18,
129:5, 135:24, 136:1,
136:4, 136:7, 139:17,
139:21, 139:24,
139:27, 140:16,
140:19, 140:22,
144:19, 145:22,
146:26, 146:28,
147:11, 147:17,
147:26, 151:28,
152:1, 178:13,
186:28, 188:1, 188:5,
188:9, 188:13,
189:11, 189:24,
190:1, 190:8, 190:13,
190:15, 190:18,
190:20, 190:24,
191:7, 191:16,
191:19, 191:24,
191:27, 192:2, 192:6,
192:11, 192:16,
192:23, 192:25,
192:28, 193:3, 193:7,
193:13, 193:20,
193:27, 194:4,
199:15, 199:18
Chalmers [1] - 152:3
chamberlain [1] -
191:28
Chamberlain [2] -
105:24, 152:2
CHAMBERS [1] - 3:7
chance [3] - 31:29,

52:8, 112:5
change [5] - 14:7, 95:7, 118:18, 193:14, 198:23
changed [9] - 26:16, 66:9, 191:21, 191:25, 191:27, 192:6, 198:18, 198:22, 199:9
changing [2] - 119:9, 194:5
charge [2] - 93:16, 164:3
Charge [1] - 160:20
Charleton [8] - 105:24, 152:2, 191:29, 192:23, 193:23, 193:24
CHARLETON [2] - 1:12, 2:2
chat [2] - 117:27, 118:13
check [22] - 9:3, 9:10, 9:22, 9:25, 10:2, 10:9, 41:22, 51:23, 52:28, 56:14, 58:22, 70:11, 80:23, 80:24, 108:1, 132:25, 136:28, 137:3, 137:7, 141:29, 165:18, 170:25
checked [3] - 124:13, 148:25, 167:15
checks [1] - 142:6
Checks [1] - 142:9
chief [5] - 72:19, 72:29, 91:6, 92:26, 96:8
CHIEF [1] - 2:20
Chief [2] - 91:4, 91:18
child [77] - 7:5, 7:18, 8:7, 9:27, 10:1, 10:2, 11:7, 11:22, 18:11, 18:15, 21:29, 26:1, 34:5, 36:18, 36:20, 36:22, 37:7, 37:20, 37:24, 38:8, 38:14, 38:17, 39:13, 43:21, 47:11, 52:20, 58:16, 67:12, 67:13, 67:15, 68:13, 68:14, 76:18, 77:1, 77:2, 77:3, 77:4, 77:16, 78:13, 78:21, 88:19, 95:18, 108:2, 110:8, 124:19, 137:20, 142:12, 144:10, 145:19, 157:11, 160:15, 161:7, 161:11, 161:12, 169:29, 170:4, 170:7, 170:12, 171:9, 178:3, 178:18, 178:23, 179:8, 179:13, 181:29, 183:7, 184:12, 195:3, 195:6, 195:11, 195:14, 195:17, 195:21, 196:13
Child [7] - 30:28, 87:20, 94:11, 121:21, 133:22, 161:29, 163:28
child's [4] - 35:24, 133:25, 161:4, 180:4
child/family [2] - 8:19, 76:16
Childcare [1] - 120:6
childhood [12] - 18:17, 18:20, 22:2, 94:14, 94:17, 105:10, 146:19, 149:25, 162:6, 180:17, 188:16, 191:4
Children [4] - 35:13, 68:25, 122:1, 144:13
children [71] - 6:20, 9:22, 25:14, 36:20, 36:22, 43:22, 45:21, 57:23, 66:23, 67:18, 67:25, 68:1, 68:3, 68:5, 68:6, 68:10, 68:19, 68:20, 76:22, 111:20, 128:18, 128:24, 153:29, 166:8, 166:14, 166:15, 166:18, 166:24, 167:7, 167:16, 168:1, 168:5, 168:12, 168:23, 169:3, 169:8, 170:20, 170:25, 171:5, 172:3, 172:18, 173:20, 173:23, 174:25, 174:27, 175:1, 175:6, 176:1, 176:6, 176:27, 177:5, 177:7, 177:10, 177:14, 177:15, 181:23, 183:26, 184:23, 185:9, 186:18, 195:1, 196:8, 196:14, 196:15, 196:25, 198:17, 198:21, 198:26, 199:2, 199:8
children" [2] - 154:2, 166:6
children' [1] - 103:2
children's [1] - 177:3
Christian [2] - 152:13, 179:4
chronological [3] - 36:5, 37:8, 125:27
chronology [1] - 46:8
circular [3] - 73:2, 73:5, 75:3
circularised [1] - 72:18
circulated [1] - 171:11
circulating [2] - 20:18, 160:26
circulation [1] - 165:9
circumstances [6] - 63:9, 63:20, 63:25, 93:10, 99:11, 134:22
clarification [3] - 35:1, 102:3, 116:2
clarified [5] - 12:16, 69:29, 94:2, 95:16, 99:4
clarify [16] - 24:1, 27:4, 49:2, 51:9, 52:8, 54:5, 56:23, 58:16, 61:12, 61:17, 78:27, 80:11, 87:8, 90:16, 105:9, 135:24
clarifying [2] - 27:26, 105:29
clarity [1] - 80:13
class [1] - 172:19
clear [15] - 23:9, 23:26, 39:28, 44:18, 56:20, 56:25, 57:11, 57:19, 69:11, 70:16, 78:3, 86:6, 87:6, 108:15, 147:10
clearer [1] - 58:10
clearly [11] - 5:16, 19:23, 58:22, 70:10, 84:18, 87:26, 98:14, 104:3, 151:29, 152:8, 194:10
client [4] - 20:13, 55:11, 138:18, 149:7
client's [1] - 65:11
clinical [2] - 85:12, 143:21
CLIONA [1] - 3:13
clock [2] - 114:22, 116:3
close [9] - 65:27, 71:6, 79:15, 79:16, 110:21, 113:20, 114:6, 116:29, 159:2
closed [20] - 9:20, 25:17, 27:15, 64:7, 66:2, 66:11, 78:15, 78:16, 78:26, 79:10, 87:27, 113:10, 113:13, 113:19, 122:13, 124:25, 146:12, 175:22, 185:20, 186:7
closing [1] - 26:3
closure [7] - 24:12, 24:21, 24:23, 25:25, 25:26, 37:11, 171:29
clothes [3] - 14:19, 55:25, 139:3
coincidence [1] - 131:17
coincidentally [2] - 131:24, 132:2
colleague [2] - 153:14, 174:18
colleagues [7] - 31:15, 75:7, 87:17, 106:15, 151:1, 163:2, 181:6
colleagues' [1] - 87:18
College [1] - 121:14
Collins [3] - 192:23, 193:22
coloured [2] - 36:13, 37:15
combination [2] - 63:20, 63:24
coming [5] - 15:24, 41:24, 97:1, 119:17, 183:8
commences [1] - 157:12
comment [6] - 59:17, 143:2, 184:4, 186:12, 186:26, 187:18
comments [3] - 12:20, 59:6, 59:9
COMMISSIONER [1] - 2:18
Commissioner [6] - 73:13, 74:17, 74:21, 85:5, 130:28, 131:10
commitment [1] - 73:26
Committee [1] - 131:1
communicated [1] - 139:11
communicating [2] - 112:28, 117:22
communication [6] - 91:21, 93:27, 94:24, 102:11, 102:16, 148:1
COMPANY [2] - 2:15, 3:22
comparatively [1] - 67:26
comparison [4] - 29:5, 67:27, 80:21, 106:27
compile [1] - 40:12
compiled [4] - 40:12, 40:14, 41:7, 48:10
complainant [5] - 9:23, 86:7, 88:12, 88:14, 148:9
complainants [1] - 146:23
complaining [1] - 128:22
complaint [6] - 51:24, 52:1, 69:21, 77:14, 132:4, 182:21
complaints [2] - 71:24, 128:23
complete [11] - 41:26, 64:13, 128:8, 130:9, 142:7, 170:19, 173:17, 175:20, 176:5, 196:2, 196:5
completed [35] - 8:26, 13:2, 13:8, 14:15, 25:28, 30:9, 30:17, 49:3, 51:21, 63:6, 79:2, 84:18, 108:1, 109:14, 109:19, 113:18, 125:11, 125:25, 142:1, 142:6, 150:29, 156:19, 157:1, 158:14, 158:20, 158:24, 158:26, 166:20, 173:8, 182:8, 182:13, 185:18, 197:10, 197:21, 199:6
completely [2] - 105:21, 136:4
completing [5] - 10:20, 59:20, 156:20, 173:16, 186:17
completion [1] - 11:27
Completion [1] - 142:17
composite [1] - 189:5
composition [1] - 178:29
comprehensive [1] - 34:14
computer [8] - 5:25, 5:29, 9:9, 9:16, 88:2, 119:26, 120:8, 125:4
computerised [1] - 141:4
conceive [1] -

102:29
Concern [1] - 142:14
concern [32] - 10:7, 10:10, 11:10, 11:15, 25:21, 26:18, 33:13, 53:20, 58:18, 65:13, 69:26, 76:23, 76:26, 77:10, 80:25, 83:28, 111:18, 112:7, 112:10, 114:17, 117:12, 118:13, 119:12, 144:11, 145:19, 177:11, 177:13, 177:14, 179:25, 180:5, 196:12, 199:6
concerned [8] - 21:9, 28:26, 52:6, 52:23, 79:17, 81:29, 83:5, 163:17
concerning [2] - 6:12, 106:16
concerns [4] - 11:22, 24:18, 34:6, 67:24
concluded [7] - 15:15, 17:18, 17:21, 73:7, 73:13, 93:20, 95:15
concludes [1] - 199:7
concurrence [1] - 99:11
condition [1] - 84:10
conduct [1] - 73:14
conducted [5] - 18:23, 23:2, 94:19, 132:5, 146:11
conference [1] - 36:23
conferences [2] - 37:19, 38:16
confidential [6] - 61:28, 65:2, 82:10, 82:12, 83:1, 83:3
Confidential [6] - 90:3, 90:7, 90:22, 91:6, 91:17, 91:19
Confidential" [1] - 89:29
confidentiality [3] - 19:17, 20:13, 57:20
confidentiality" [2] - 18:6, 19:11
confidentially [1] - 19:20
confirm [8] - 27:26, 29:8, 52:8, 54:5, 56:19, 116:4, 122:7, 122:11
confirmation [3] - 80:13, 145:3, 145:5
confirmed [6] - 54:13, 54:14, 56:1, 110:19, 111:28
conflation [1] - 135:27
confusion [2] - 55:29, 140:11
congratulate [1] - 73:19
congratulating [1] - 73:22
CONLON [1] - 3:6
connection [1] - 170:27
CONNOLLY [2] - 4:10, 121:7
Connolly [10] - 48:11, 49:3, 121:4, 121:10, 127:25, 130:14, 132:9, 141:10, 145:11, 157:7, 157:26, 159:11, 173:11, 194:15, 195:26, 199:11
CONOR [1] - 2:18
conscious [2] - 19:22, 20:5
consent [2] - 38:8, 86:6
consequence [1] - 53:4
consequences [4] - 96:29, 99:29, 101:7, 102:17
consider [2] - 67:21, 67:29
considered [6] - 17:1, 65:24, 77:23, 83:22, 156:14, 186:7
considering [9] - 60:15, 146:11, 156:11, 157:6, 177:5, 177:6, 185:11, 185:26, 186:8
consistent [5] - 17:5, 17:10, 108:5, 108:8, 149:19
consistently [2] - 193:3, 193:7
constant [1] - 131:12
constituted [2] - 43:26, 66:23
consultation [2] - 159:13, 159:22
contact [42] - 19:1, 19:2, 23:21, 28:2, 28:8, 28:9, 29:23, 33:17, 36:2, 51:15, 51:17, 62:9, 63:9, 63:23, 82:21, 82:23, 82:27, 96:10, 96:14, 96:18, 97:8, 98:9, 98:23, 101:10, 101:28, 101:29, 103:2, 108:10, 124:19, 155:20, 156:10, 165:27, 166:15, 171:29, 177:10, 181:22, 183:25, 196:17, 196:25, 198:21, 198:26, 199:2
Contact [1] - 166:2
contacted [6] - 19:4, 26:21, 52:14, 63:12, 96:11, 134:11
contacts [1] - 35:24
contacts" [1] - 35:8
contain [4] - 14:22, 27:20, 35:10, 37:17
contained [10] - 17:2, 27:2, 33:9, 51:7, 79:28, 151:23, 152:28, 175:10, 189:9, 190:11
containing [3] - 47:26, 99:27
contains [3] - 14:20, 46:18, 105:21
contemplated [1] - 28:27
contemporaneous [1] - 36:7
content [5] - 135:19, 138:3, 150:14, 153:1, 163:15
contents [6] - 37:28, 41:22, 94:7, 157:16, 169:24, 184:24
context [13] - 8:4, 28:29, 50:11, 76:18, 85:25, 93:23, 93:25, 94:6, 96:21, 106:3, 107:9, 139:19, 191:13
continue [7] - 5:4, 75:6, 125:10, 163:22, 169:11, 183:11, 187:13
CONTINUED [1] - 5:7
continues [2] - 147:23, 168:28
continuing [1] - 97:19
contradictory [1] - 136:4
contrast [1] - 191:19
controversies [1] - 71:12
controversy [3] - 70:23, 70:26, 75:18
convenient [1] - 171:20
conversation [12] - 14:24, 42:1, 56:18, 56:19, 57:4, 58:27, 58:29, 59:4, 118:4, 138:11, 139:12, 140:29
conversations [2] - 176:20, 176:21
conveys [2] - 14:26, 15:1
coordinate [1] - 115:27
copied [3] - 42:13, 48:18, 48:21
copies [7] - 35:10, 37:17, 37:20, 37:21, 49:9, 49:13, 49:15
copy [12] - 5:12, 31:20, 39:10, 39:16, 42:6, 46:23, 49:23, 85:18, 133:17, 140:2, 148:22, 171:9
copying [1] - 193:9
COPYRIGHT [1] - 3:28
corner [1] - 85:23
correct [214] - 5:17, 5:28, 7:9, 9:8, 14:19, 14:25, 15:17, 23:11, 29:10, 30:8, 30:23, 32:15, 46:10, 46:13, 59:25, 61:7, 62:2, 64:19, 66:20, 69:1, 70:21, 75:1, 75:16, 76:10, 79:25, 88:9, 88:29, 94:27, 94:29, 95:3, 95:6, 95:26, 98:10, 99:17, 101:5, 103:12, 105:26, 108:17, 110:6, 110:10, 110:22, 114:21, 122:9, 122:10, 122:21, 122:22, 122:24, 122:29, 123:1, 123:4, 123:6, 123:9, 123:22, 124:3, 124:4, 125:14, 125:15, 125:17, 125:18, 126:10, 126:11, 127:22, 128:4, 129:23, 130:12, 133:13, 133:23, 133:24, 134:19, 135:8, 135:16, 136:1, 136:12, 136:13, 136:28, 137:18, 137:19, 137:22, 141:14, 141:15, 141:20, 141:21, 142:12, 142:13, 142:15, 142:16, 142:19, 142:20, 142:29, 143:1, 149:5, 149:6, 149:10, 149:16, 149:18, 151:1, 151:5, 151:6, 153:25, 156:21, 156:22, 157:14, 157:15, 157:24, 157:25, 158:10, 160:22, 160:23, 161:7, 161:8, 161:15, 161:16, 161:20, 161:21, 161:24, 161:25, 163:14, 163:15, 164:16, 164:26, 164:27, 165:1, 165:2, 165:5, 165:27, 165:29, 166:1, 166:3, 166:4, 166:21, 166:22, 166:27, 166:28, 167:1, 167:4, 167:5, 167:10, 167:20, 167:21, 167:25, 168:6, 168:7, 168:10, 168:11, 168:14, 168:15, 168:16, 168:17, 168:28, 168:29, 169:5, 169:6, 169:14, 169:15, 169:19, 170:8, 170:9, 170:15, 170:16, 170:20, 170:21, 173:20, 175:11, 177:23, 177:26, 178:19, 178:24, 178:27, 179:6, 179:7, 179:11, 179:17, 179:18, 179:20, 179:23, 179:24, 179:26, 180:1, 180:7, 180:8, 180:10, 180:11, 182:1, 182:12, 184:1, 187:14, 189:8, 189:16, 191:7, 193:3, 193:8, 194:18, 194:28, 195:3, 195:4, 195:7, 195:8, 195:11, 195:12, 195:15, 195:18, 195:19, 195:24, 195:25, 196:10, 196:11, 196:19, 196:20,

196:29, 197:1, 197:4,
197:5, 197:8, 198:11
corrected [3] -
57:14, 187:12
correction [1] -
36:24
correctly [5] - 32:21,
35:3, 93:17, 109:4,
156:1
correspondence
[14] - 19:26, 23:12,
23:22, 35:12, 35:28,
39:12, 39:24, 63:5,
63:7, 83:4, 83:11,
86:21, 93:11, 198:28
corridor [1] - 159:4
COSTELLO [1] -
2:15
couch [6] - 14:18,
35:2, 55:23, 69:22,
105:28, 139:2
counsel [1] - 131:21
Counselling [1] -
108:4
counselling [12] -
18:17, 18:19, 22:2,
94:13, 94:16, 161:27,
162:4, 162:5, 171:9,
180:15, 180:16,
188:15
counsellor [6] -
57:16, 57:18, 57:19,
80:15, 135:7, 161:27
counsellors [1] -
88:13
country [1] - 119:10
county [1] - 181:4
County [1] - 162:27
couple [5] - 82:26,
83:12, 107:17,
111:13, 113:23
course [19] - 46:12,
48:12, 48:18, 66:24,
80:6, 97:12, 101:4,
102:16, 106:3, 125:9,
138:1, 143:15, 147:3,
162:5, 174:11,
180:16, 188:2,
190:18, 197:15
COURT [2] - 1:13,
2:3
court [4] - 38:8,
44:14, 68:8
Court [1] - 199:17
cover [1] - 37:28
covered [2] - 38:5,
38:13
COX [1] - 2:27
CPN1 [1] - 36:15
CPN2 [1] - 36:15

CPN3 [1] - 36:15
CPNS [1] - 36:20
create [7] - 22:21,
31:8, 32:3, 33:5,
100:20, 110:3, 159:12
created [39] - 20:29,
21:1, 22:20, 22:23,
32:3, 33:3, 33:7, 34:1,
40:29, 42:16, 47:5,
47:6, 47:12, 49:1,
53:29, 81:7, 114:21,
116:3, 120:1, 123:7,
123:8, 123:11,
143:11, 143:14,
143:18, 146:8, 149:2,
161:24, 166:19,
169:16, 169:22,
176:25, 177:22,
177:26, 186:22,
186:24, 195:10,
195:18, 195:27
creating [3] - 159:25,
160:16, 196:23
creation [5] - 30:29,
50:14, 105:3, 108:26,
115:1
credible [1] - 68:21
criminal [7] - 18:10,
18:24, 23:3, 70:15,
73:14, 94:19, 95:14
crisis [2] - 73:27,
74:5
criteria [3] - 6:9,
6:15, 7:3
critical [1] - 37:6
cross [1] - 7:8
CROSS [6] - 4:6, 4:7,
50:19, 84:23, 85:1,
107:13
CROSS-
EXAMINATION [2] -
84:23, 107:13
CROSS-EXAMINED
[4] - 4:6, 4:7, 50:19,
85:1
CSA [14] - 23:17,
23:19, 69:15, 69:23,
77:16, 86:28, 87:20,
108:18, 108:20,
170:2, 170:13,
181:16, 183:13
cunningham [1] -
61:29
Cunningham [56] -
16:24, 17:3, 18:4,
18:14, 19:29, 21:28,
23:13, 24:9, 27:24,
28:14, 31:9, 38:25,
42:4, 42:7, 44:7,
49:11, 54:15, 61:27,

62:4, 62:17, 63:5,
63:12, 63:18, 63:24,
64:16, 65:19, 80:12,
80:25, 82:8, 82:9,
85:16, 85:18, 85:26,
86:26, 87:12, 88:28,
89:1, 89:11, 91:10,
93:6, 93:15, 99:6,
100:4, 101:29, 102:9,
102:13, 104:8,
106:25, 110:18,
117:24, 123:16,
155:11, 155:19,
156:10, 164:6
Cunningham' [1] -
62:9
Cunningham's [6] -
17:25, 23:10, 23:21,
86:17, 97:21, 164:23
curious [1] - 187:16
Curran [3] - 85:12,
85:27, 86:17
Curran's [1] - 86:12
current [13] - 9:27,
115:25, 115:26,
126:19, 126:21,
127:6, 134:4, 144:10,
145:18, 153:28,
166:11, 177:11
CUSH [2] - 2:22,
107:15
cut [4] - 126:24,
182:7, 189:16, 193:9

D

d" [1] - 161:5
d's [18] - 138:22,
139:5, 152:9, 154:22,
168:9, 169:18,
169:20, 170:4, 171:9,
171:27, 172:5, 175:7,
175:8, 175:9, 175:17,
175:21, 181:5, 191:21
D's [32] - 9:19, 13:21,
15:16, 15:21, 15:26,
17:16, 23:7, 23:13,
23:15, 25:7, 26:3,
27:4, 29:25, 51:8,
55:15, 59:23, 61:16,
65:11, 66:2, 70:10,
77:26, 78:16, 79:16,
86:24, 87:10, 87:20,
89:14, 105:12,
108:18, 113:10,
163:2, 181:18
D/Ms [2] - 46:19,
47:25
d/Ms [1] - 135:27
daily [2] - 132:17,

132:21
danger [1] - 128:15
DARREN [1] - 3:11
database [3] - 13:6,
30:21, 106:19
date [33] - 16:12,
16:15, 16:18, 19:3,
24:17, 24:22, 28:10,
32:18, 44:28, 45:1,
72:5, 72:10, 72:28,
87:3, 96:10, 98:28,
103:28, 104:5, 109:1,
137:17, 142:5, 156:1,
156:5, 157:2, 158:11,
160:29, 161:6, 164:3,
176:19, 179:9,
179:13, 179:15
date-stamp [2] -
16:15, 103:28
dated [13] - 18:3,
21:3, 24:21, 36:4,
37:22, 85:22, 86:17,
88:27, 89:19, 104:5,
149:4, 156:2, 167:12
dates [2] - 69:12,
188:19
dating [3] - 108:2,
170:5, 178:17
daughter [1] -
111:17
daughters [12] -
55:17, 111:17,
111:19, 128:14,
138:24, 153:22,
162:18, 166:25,
167:8, 180:29,
188:29, 191:15
DAVID [1] - 3:5
DAY [2] - 1:18, 5:1
days [6] - 46:18,
63:22, 89:21, 113:23,
138:4, 150:13
dead [1] - 93:12
deadline [1] - 44:7
deal [10] - 66:24,
92:18, 100:19,
101:19, 103:11,
107:8, 107:16, 119:9,
136:24, 178:10
dealing [13] - 7:18,
8:4, 65:28, 65:29,
67:25, 71:19, 77:17,
78:19, 122:23, 125:5,
134:3, 149:11, 163:21
dealings [2] - 28:21,
122:12
dealt [12] - 19:12,
19:17, 57:10, 64:6,
75:18, 94:4, 114:25,
116:19, 122:20,

122:26, 127:27,
174:11
Dear [2] - 18:14,
21:28
dear [1] - 165:9
death [1] - 93:28
December [7] - 72:7,
92:12, 117:7, 133:7,
172:9, 174:9, 198:22
decide [1] - 32:3
decided [13] - 13:17,
21:13, 30:4, 30:5,
30:6, 31:8, 54:3,
61:11, 89:8, 110:3,
113:2, 118:20, 150:16
decision [18] - 6:24,
13:16, 33:4, 33:5,
41:22, 43:17, 65:27,
89:15, 98:12, 112:16,
112:26, 112:28,
113:8, 113:11,
113:21, 119:5,
150:20, 185:26
decision-making [1]
- 185:26
decisions [3] -
38:16, 38:18
deduce [2] - 168:8,
169:3
deducing [1] - 177:3
deemed [1] - 199:3
Deeney [2] - 159:11,
164:4
definitely [5] - 14:11,
29:29, 61:4, 75:27,
135:21
definition [1] - 68:24
degree [1] - 94:5
delay [1] - 41:23
delete [1] - 6:4
delivered [1] - 147:5
demands [2] - 44:17,
96:2
Denise [2] - 32:26,
32:27
Department [13] -
121:24, 121:27,
122:15, 124:20,
141:20, 141:27,
142:4, 144:12, 166:9,
177:8, 184:11, 196:9,
196:23
department [29] -
8:15, 8:19, 39:14,
56:27, 57:1, 57:11,
69:16, 76:13, 76:16,
77:13, 87:1, 87:7,
87:9, 87:28, 99:14,
100:2, 103:15,
104:16, 104:17,

113:2, 113:5, 113:7,
124:23, 124:25,
125:6, 125:23,
170:23, 190:10,
195:29
departments [1] -
39:15
dependent [1] - 6:17
derogatory [1] -
131:3
Description [2] -
149:23, 150:22
description [32] -
14:25, 15:9, 17:2,
88:14, 94:27, 95:2,
105:8, 136:2, 150:24,
151:1, 151:2, 151:7,
151:8, 151:14,
151:20, 151:22,
152:10, 152:22,
152:27, 153:4,
172:25, 173:5, 173:9,
173:13, 186:8,
186:10, 186:23,
188:7, 191:1, 191:8,
194:25
descriptions [1] -
187:6
designated [4] -
77:7, 125:2, 163:21,
163:29
designating [1] -
12:28
designed [3] - 9:21,
76:21, 112:12
desktop [2] - 6:4,
9:13
desperately [1] -
145:22
despite [2] - 74:27,
119:4
detail [14] - 32:1,
61:21, 72:9, 102:27,
108:11, 117:20,
118:17, 138:2,
152:11, 152:17,
189:20, 194:8,
194:11, 194:12
detailed [3] - 117:17,
119:3, 150:4
detailing [3] -
117:14, 118:10,
118:29
details [52] - 5:16,
5:21, 14:17, 17:13,
34:15, 35:25, 37:11,
37:19, 55:21, 72:3,
77:4, 80:24, 89:16,
98:9, 134:18, 137:7,
137:20, 137:27,
137:29, 138:12,
138:29, 139:5,
141:11, 150:17,
150:19, 151:23,
152:9, 154:6, 164:15,
164:23, 165:17,
167:7, 167:9, 171:5,
171:19, 172:3,
173:20, 173:28,
174:1, 174:4, 174:21,
175:1, 178:2, 178:22,
179:4, 179:19, 180:9,
180:12, 182:2,
186:21, 195:14,
195:21
Details [3] - 143:24,
153:28, 161:23
detect [2] - 152:4,
193:18
detected [1] - 153:7
determination [1] -
27:27
determine [5] -
142:1, 148:3, 170:25,
170:27, 171:7
Dewhirst [2] -
160:25, 164:28
diaried [1] - 44:7
DIARMUID [1] - 2:6
diary [1] - 124:13
died [1] - 93:9
differed [2] - 151:22,
173:29
difference [2] -
151:2, 192:7
differences [1] -
150:28
different [46] - 7:6,
7:22, 22:23, 23:18,
26:14, 28:12, 31:22,
41:29, 42:3, 47:27,
69:16, 71:20, 75:23,
81:20, 82:6, 100:22,
101:13, 105:24,
112:28, 113:28,
116:22, 134:8, 146:4,
150:4, 151:3, 152:1,
152:3, 153:4, 173:14,
174:4, 183:8, 187:7,
189:6, 189:13,
189:14, 192:4, 192:9,
192:21, 193:5,
193:19, 193:24,
194:26, 195:3, 195:14
differentiated [2] -
129:8, 129:17
differently [2] -
63:11, 187:1
difficult [6] - 75:6,
92:20, 97:18, 103:28,
132:9, 158:17
difficulty [5] - 69:29,
76:20, 91:12, 148:7,
168:19
digital [10] - 79:28,
105:11, 118:22,
149:25, 162:6,
180:18, 187:4,
188:16, 189:25, 191:4
DIGNAM [1] - 2:18
direct [3] - 56:17,
164:5, 193:9
directed [9] - 26:8,
61:6, 89:11, 123:3,
137:14, 143:23,
160:2, 163:11, 181:10
directing [1] - 187:18
direction [12] -
63:21, 84:13, 126:26,
144:29, 146:6, 156:3,
159:18, 159:27,
176:5, 176:10,
176:22, 183:5
directions [1] -
176:16
DIRECTLY [4] - 4:5,
4:11, 5:7, 121:7
directly [4] - 14:10,
16:4, 19:21, 188:22
disagree [1] - 29:8
disappear [1] - 47:29
disappoint [1] - 66:4
discern [1] - 103:28
disclosure [21] -
14:14, 16:21, 22:10,
23:17, 30:2, 31:28,
39:1, 42:9, 44:23,
49:20, 102:20,
135:14, 136:12,
148:19, 149:4,
149:15, 150:18,
151:21, 161:5, 191:12
DISCLOSURES [2] -
1:3, 1:4
discover [1] - 24:2
discovered [1] -
24:11
discuss [11] - 17:27,
18:29, 28:7, 58:25,
75:28, 96:14, 98:22,
115:15, 155:19,
185:10, 185:25
discussed [14] -
18:19, 43:13, 50:1,
50:4, 75:27, 75:29,
94:16, 117:26,
143:16, 159:6,
179:25, 187:22,
197:22, 198:4
discussing [4] -
34:18, 60:14, 76:8,
115:28
discussion [6] -
35:27, 56:20, 106:14,
106:17, 106:21, 185:8
discussions [1] -
176:15
dispute [2] - 48:28,
49:5
disputing [1] - 40:28
disseminated [1] -
118:27
distributed [1] - 81:5
district [5] - 28:24,
73:9, 73:15, 73:20,
73:23
divert [1] - 176:13
divider [3] - 35:2,
36:13, 177:21
divined [1] - 93:17
division [5] - 28:24,
71:13, 73:4, 75:19,
82:1
document [23] -
35:6, 40:9, 46:4,
53:29, 76:4, 76:5,
76:8, 79:27, 85:8,
85:21, 89:28, 91:26,
136:10, 136:11,
136:14, 136:17,
136:19, 137:2,
160:16, 164:25,
177:20, 196:4
documentation [2] -
136:9, 157:13
documents [13] -
20:25, 31:18, 31:26,
40:17, 43:26, 45:26,
45:27, 119:28, 123:8,
135:18, 135:19, 167:6
domestically [1] -
66:24
DONAL [1] - 2:19
DONALD [1] - 2:19
done [15] - 12:13,
14:12, 16:3, 16:4,
33:21, 33:23, 55:2,
67:11, 100:4, 100:5,
109:20, 144:7,
156:23, 159:13,
185:18
done' [1] - 100:15
door [1] - 119:17
doubt [3] - 80:10,
92:13, 155:14
down [28] - 7:10,
8:28, 10:18, 31:17,
31:21, 46:21, 59:6,
60:3, 60:8, 78:3, 78:4,
78:15, 92:27, 106:23,
107:26, 107:27,
117:12, 137:27,
141:4, 142:10,
148:10, 149:14,
169:13, 172:12,
178:2, 178:8, 179:19
DPP [26] - 17:14,
23:25, 55:21, 56:4,
61:6, 64:5, 89:3, 89:8,
89:10, 89:13, 89:16,
98:2, 115:14, 116:27,
138:28, 144:23,
144:24, 145:10,
145:27, 145:28,
146:12, 147:3,
147:13, 154:10,
163:10, 181:10
DPP" [1] - 144:2
draft [2] - 99:19,
106:12
drafted [4] - 17:3,
20:21, 89:21, 165:4
drafting [1] - 158:24
drafts [1] - 20:24
draw [1] - 67:20
drawered [1] -
125:22
drawing [1] - 184:8
dreadful [2] - 128:19,
128:20
drew [2] - 46:9,
192:25
driving [1] - 132:20
drop [1] - 141:4
drop-down [1] -
141:4
dropping [1] -
192:18
Drumalee [2] - 7:8,
163:28
Ds [1] - 174:15
DUBLIN [9] - 1:17,
2:12, 2:17, 2:21, 2:25,
2:28, 2:30, 3:8, 3:18
Dublin [1] - 121:14
Dublin/Mid [1] -
121:22
Dublin/Mid-
Leinster [1] - 121:22
due [4] - 48:12,
93:25, 99:10, 190:18
Duignan's [1] - 32:26
DUNNE [1] - 3:16
duplicate [2] - 22:19,
81:19
during [14] - 18:19,
18:20, 73:20, 75:15,
81:29, 94:16, 94:17,
101:22, 125:9,
138:11, 162:4,

174:11, 180:15,
192:10
duties [3] - 12:28,
68:15, 81:14
duty [75] - 5:24, 5:26,
7:26, 9:7, 9:14, 12:16,
12:27, 13:2, 13:3,
13:18, 22:21, 28:1,
54:1, 59:12, 59:13,
60:3, 60:17, 62:5,
62:28, 63:21, 79:29,
82:2, 82:3, 100:9,
101:23, 103:14,
103:23, 109:18,
110:13, 122:3, 122:5,
124:15, 124:16,
124:18, 125:1, 125:3,
125:4, 125:11,
125:16, 125:21,
125:25, 125:28,
125:29, 126:3,
127:11, 127:15,
127:19, 128:3, 128:5,
128:8, 129:10,
129:13, 129:15,
129:17, 141:27,
142:25, 143:3, 143:6,
143:23, 148:27,
149:9, 149:11,
149:12, 157:18,
158:19, 159:2, 160:1,
161:2, 173:16, 198:6,
198:8, 198:12, 198:15
Duty [2] - 12:22,
59:14
duty-bound [1] -
100:9
DÁIL [1] - 1:5

E

e-mail [2] - 143:11,
165:7
EAMON [1] - 3:1
EARL [1] - 3:23
EARLSFORT [2] -
2:27, 3:17
early [1] - 72:7
easier [2] - 139:25,
140:5
easiest [1] - 7:29
ed [2] - 17:6, 39:5
education [3] -
55:20, 138:27, 144:1
effect [2] - 114:22,
124:18
effectively [1] -
63:25
efficient [1] - 75:7

effort [1] - 33:5
eight [2] - 16:3,
107:26
Eileen [11] - 157:19,
157:20, 157:21,
157:28, 163:26,
166:16, 167:15,
175:26, 176:5
either [10] - 6:2,
7:24, 10:22, 39:22,
41:21, 49:22, 78:13,
129:20, 150:7, 160:5
elaborate [2] - 67:28,
117:13
electronically [2] -
120:9, 193:11
elevation [2] - 95:1,
95:5
eleven [4] - 48:18,
48:19, 55:19, 121:29
eleven-year [1] -
121:29
elicit [4] - 90:28,
102:5, 152:16, 194:11
ELIZABETH [1] - 2:7
ELY [1] - 2:30
email [2] - 164:26,
165:3
emanating [1] -
39:17
Emer [4] - 85:11,
85:26, 85:28, 86:11
emphasise [1] - 26:6
employment [3] -
121:20, 121:23,
122:14
enclose [1] - 42:6
enclosed [2] - 42:10,
86:11
enclosing [2] - 42:5,
88:1
end [14] - 31:23,
40:10, 43:28, 57:21,
64:9, 64:11, 75:11,
95:28, 130:24, 133:7,
172:12, 192:12,
194:22, 198:5
END [3] - 84:23,
107:13, 111:9
endeavour [1] -
176:18
endeavoured [1] -
31:20
ended [1] - 166:7
ends [1] - 104:10
engage [1] - 101:18
English [1] - 192:3
ensued [1] - 17:14
ensure [1] - 142:7
entered [1] - 88:2

entering [1] - 198:29
enthusiasm [1] -
73:26
entire [2] - 72:18,
82:1
entirely [2] - 92:18,
149:19
entirety [1] - 140:1
entitled [2] - 47:22,
113:20
entries [2] - 32:17,
108:28
entry [4] - 10:12,
36:4, 124:14, 155:9
environment [1] -
152:16
envisage [2] - 34:24,
36:17
envisaged [1] - 39:9
EQUALITY [1] - 1:9
equated [1] - 95:10
erring [1] - 177:1
erroneous [4] -
44:28, 47:12, 47:25,
109:29
error [4] - 14:22,
46:19, 152:5, 194:3
escaped [1] - 104:12
establish [4] - 51:27,
97:11, 97:15, 97:27
ESTABLISHED [1] -
1:8
establishment [2] -
31:16, 96:23
et [1] - 114:26
etcetera [2] - 37:20,
56:5
evening [1] - 8:1
event [9] - 21:26,
57:25, 66:28, 68:26,
87:6, 91:3, 92:22,
133:5, 187:25
events [5] - 37:6,
105:22, 132:16,
135:9, 143:15
EVIDENCE [1] - 1:9
evidence [36] - 5:5,
16:18, 26:25, 42:10,
44:19, 46:29, 48:3,
48:20, 49:19, 52:16,
52:26, 53:9, 54:21,
54:24, 56:26, 59:25,
62:7, 73:11, 84:5,
86:29, 88:10, 92:17,
104:20, 106:23,
107:5, 112:23,
122:18, 123:2, 124:4,
130:5, 133:11,
134:28, 154:11,
156:18, 171:18,

175:18
exact [5] - 23:28,
54:6, 60:4, 61:18,
98:28
exactly [16] - 26:23,
27:26, 53:8, 60:25,
70:17, 70:25, 87:25,
89:22, 97:29, 119:26,
136:3, 140:18,
146:15, 148:8,
182:10, 191:22
EXAMINATION [3] -
84:23, 107:13, 111:9
EXAMINED [10] -
4:5, 4:6, 4:7, 4:8,
4:11, 5:7, 50:19, 85:1,
107:19, 121:8
examined [1] - 15:16
except [5] - 82:21,
140:16, 195:6,
195:13, 195:20
excuse [3] - 57:12,
86:16, 93:21
Executive [10] -
18:15, 18:26, 21:29,
23:5, 24:5, 25:12,
26:7, 26:9, 65:17,
94:11
exercise [1] - 194:24
exhibits [1] - 139:23
exist [1] - 87:24
existed [1] - 87:23
existence [4] - 26:2,
76:24, 87:26, 117:19
existing [1] - 77:29
expect [14] - 19:28,
127:7, 134:21,
134:23, 134:28,
135:3, 136:14,
136:20, 146:10,
146:15, 150:10,
156:5, 171:28, 175:7
expected [1] - 82:19
expecting [1] - 54:18
experienced [2] -
162:5, 180:16
explain [19] - 31:14,
72:8, 118:6, 147:21,
151:6, 151:24, 152:6,
169:21, 169:23,
174:3, 174:5, 176:25,
177:7, 192:14,
192:15, 194:6,
195:26, 196:21,
198:16
explained [8] - 7:1,
14:2, 76:20, 77:7,
79:1, 107:5, 174:21,
186:29
explains [2] -

174:15, 191:12
explanation [7] -
95:29, 104:16, 130:6,
152:26, 173:15,
183:2, 193:17
explore [1] - 123:24
expressed [1] -
25:20
expressing [1] -
119:12
expression [1] -
106:26
extract [1] - 108:24
extremely [1] - 134:4

F

face [12] - 89:19,
95:11, 115:12,
115:18, 115:20,
116:26, 147:2
face-to-face [3] -
115:12, 115:18,
115:20
Facebook [1] - 133:1
facility [1] - 92:16
facsimile [1] - 31:19
fact [40] - 6:7, 6:14,
9:10, 10:24, 14:8,
17:16, 17:18, 20:5,
20:8, 24:21, 25:24,
52:15, 54:6, 56:9,
61:24, 62:27, 64:26,
77:12, 87:1, 88:23,
89:19, 95:10, 97:11,
99:18, 99:26, 100:4,
100:24, 102:8,
105:14, 109:25,
119:4, 133:4, 138:7,
150:7, 153:3, 169:27,
184:8, 189:24, 191:21
facts [2] - 96:23,
96:24
failure [3] - 97:14,
99:23, 100:11
failures [1] - 73:8
fair [6] - 72:27,
97:25, 100:24, 107:1,
126:29, 183:28
fairness [1] - 139:18
false [2] - 44:28,
117:14
familiar [3] - 126:13,
126:19, 146:29
families [3] - 75:5,
195:27, 196:16
Family [6] - 30:28,
94:11, 121:21,
133:21, 161:29,

163:28
family [14] - 7:5,
18:15, 21:29, 37:7,
37:24, 77:1, 111:16,
124:21, 124:23,
124:25, 128:14,
172:5, 174:22, 196:15
FANNING [1] - 2:10
far [8] - 21:9, 52:5,
81:29, 95:10, 113:22,
134:26, 149:20,
163:17
Farnham [2] - 7:10,
7:12
father [17] - 55:15,
93:8, 105:12, 138:22,
149:27, 150:27,
154:22, 162:12,
163:2, 172:16,
178:25, 179:2, 180:6,
180:23, 181:5,
188:22, 191:6
father's [6] - 55:14,
93:25, 93:28, 138:22,
153:13, 161:6
fault [4] - 15:20,
45:24, 96:28
featured [1] - 186:16
FEBRUARY [2] - 1:6,
1:10
February [2] -
131:20, 134:11
feedback [1] - 27:24
fellow [1] - 106:15
felt [9] - 26:19,
56:22, 110:25,
112:12, 113:3, 114:9,
114:12, 114:16,
147:11
FERRY [1] - 3:5
few [7] - 43:26,
46:18, 86:16, 120:9,
130:27, 140:14,
172:17
figure [1] - 72:6
file [379] - 8:29, 9:1,
9:4, 9:10, 9:13, 9:26,
10:7, 13:21, 15:16,
15:21, 15:26, 17:16,
18:23, 20:28, 22:13,
22:18, 22:25, 22:26,
23:2, 23:7, 23:10,
23:16, 23:17, 23:20,
23:21, 24:23, 25:7,
25:21, 25:25, 25:28,
26:3, 27:3, 29:9,
29:12, 29:14, 29:20,
29:23, 29:25, 30:3,
30:4, 30:5, 30:6,
30:19, 30:26, 31:1,
31:8, 31:12, 31:17,
31:20, 31:22, 32:4,
32:10, 32:11, 32:14,
32:15, 32:18, 33:5,
33:7, 33:26, 33:27,
33:29, 34:22, 36:11,
38:3, 38:23, 39:15,
39:16, 39:20, 40:9,
40:11, 40:12, 40:13,
40:22, 40:24, 40:28,
41:1, 41:3, 41:4, 41:5,
41:7, 41:9, 42:13,
42:16, 43:5, 43:7,
43:26, 43:29, 45:7,
45:8, 45:14, 45:15,
45:29, 46:5, 46:23,
47:4, 47:9, 48:5,
48:17, 48:27, 48:28,
49:1, 49:4, 49:5,
49:23, 51:4, 51:8,
53:10, 53:14, 53:27,
57:8, 58:29, 59:21,
59:23, 59:29, 60:23,
60:26, 61:1, 61:3,
61:20, 61:23, 62:5,
62:11, 62:16, 63:1,
63:13, 63:26, 64:2,
64:7, 64:15, 65:28,
66:2, 66:8, 69:2, 69:8,
69:12, 69:13, 69:15,
69:23, 69:28, 70:11,
70:13, 76:2, 77:13,
77:16, 77:26, 77:27,
77:29, 78:1, 78:15,
78:16, 78:26, 79:2,
80:3, 81:6, 81:7, 81:9,
81:21, 82:4, 82:7,
84:11, 87:10, 87:19,
87:21, 88:4, 88:5,
89:14, 93:24, 94:18,
98:12, 98:17, 98:21,
98:26, 99:8, 99:28,
101:11, 101:13,
101:14, 101:26,
102:1, 104:10,
104:14, 105:1, 105:2,
106:18, 106:21,
108:1, 108:3, 108:10,
108:16, 108:17,
108:18, 108:19,
108:20, 108:26,
110:3, 110:4, 110:21,
112:6, 113:10,
113:13, 113:19,
113:20, 114:20,
114:22, 115:1, 116:3,
116:13, 116:21,
116:22, 116:29,
117:4, 117:15, 118:6,
120:1, 120:2, 122:13,
122:16, 122:20,
122:26, 122:27,
123:3, 123:7, 123:16,
123:19, 123:20,
123:25, 124:5,
124:25, 125:14,
126:1, 127:12,
127:21, 128:1, 130:4,
130:7, 130:9, 130:10,
130:21, 131:16,
132:3, 133:12,
133:21, 133:22,
134:2, 134:7, 134:8,
134:15, 134:17,
134:22, 135:6, 135:8,
135:11, 135:12,
135:13, 135:15,
135:22, 136:5, 136:9,
137:12, 137:16,
138:1, 139:22, 140:3,
140:16, 142:28,
144:22, 145:27,
146:12, 147:2, 147:7,
147:13, 148:18,
148:20, 148:24,
154:10, 155:7,
155:10, 155:13,
155:14, 156:8,
156:16, 156:17,
156:18, 157:4,
157:28, 158:9,
158:12, 158:14,
158:16, 158:21,
159:6, 159:25,
160:18, 163:9,
164:25, 165:24,
167:6, 167:16, 168:9,
169:13, 169:16,
169:18, 169:20,
169:28, 169:29,
170:1, 170:7, 170:8,
170:10, 170:11,
170:12, 170:15,
170:18, 170:27,
171:2, 171:9, 171:10,
171:24, 171:25,
171:27, 171:29,
172:2, 172:4, 172:27,
173:2, 173:12,
173:19, 173:22,
175:7, 175:8, 175:10,
175:12, 175:13,
175:16, 175:17,
175:22, 176:11,
176:23, 177:3,
177:20, 177:21,
181:9, 181:18,
181:20, 182:20,
183:5, 183:17,
183:20, 183:22,
184:24, 185:18,
185:27, 186:7, 186:9,
186:10, 186:11,
186:13, 187:17,
187:19, 187:24,
187:28, 194:17,
194:20, 194:24,
195:17, 197:10
file-check [1] - 108:1
filed [1] - 36:5
files [38] - 14:8, 21:7,
32:3, 42:18, 42:23,
43:7, 43:9, 43:16,
44:12, 49:25, 50:6,
50:14, 87:27, 102:21,
106:16, 114:6, 120:8,
125:10, 125:17,
125:20, 125:23,
125:26, 126:6, 126:8,
127:1, 127:21,
127:26, 128:5,
129:26, 169:22,
169:24, 169:27,
170:6, 170:28,
176:16, 176:17,
197:13
filing [22] - 42:19,
42:21, 42:24, 43:10,
81:12, 123:20,
123:25, 125:21,
126:7, 127:2, 127:22,
127:27, 128:29,
129:21, 130:4,
130:21, 132:3,
133:13, 142:29,
156:19, 157:19,
170:12
filled [4] - 141:18,
142:15, 179:23,
181:27
final [4] - 37:12,
37:26, 74:20, 163:5
fine [1] - 57:14
finer [1] - 72:3
finish [1] - 163:22
FINTAN [1] - 3:11
FIONA [1] - 3:22
first [53] - 6:21, 23:8,
25:11, 26:21, 30:25,
31:21, 33:16, 35:20,
45:16, 51:22, 53:13,
84:25, 85:8, 87:19,
97:28, 101:24,
102:10, 107:27,
108:25, 109:7, 116:4,
118:16, 124:18,
133:20, 133:23,
135:11, 135:20,
136:25, 138:15,
143:25, 151:10,
156:28, 158:5,
160:18, 161:9, 162:2,
172:9, 176:7, 177:20,
177:21, 178:5,
181:26, 182:4, 189:9,
189:20, 192:8,
193:22, 195:2, 195:5,
195:10, 195:13,
195:20, 196:2
First [3] - 35:13,
68:25, 144:13
firstly [1] - 151:25
five [11] - 55:17,
93:1, 96:18, 114:8,
138:24, 153:23,
162:19, 166:26,
168:6, 181:1, 189:1
flag [1] - 142:2
flick [1] - 139:24
flowed [1] - 102:17
focus [3] - 97:26,
97:27, 194:12
folder [4] - 33:27,
34:3, 34:23, 35:8
folders [2] - 130:18,
130:26
follow [26] - 11:2,
11:3, 44:3, 44:7,
44:11, 44:16, 58:17,
69:10, 80:21, 81:6,
82:17, 84:6, 95:24,
95:29, 97:12, 102:13,
112:1, 112:3, 112:17,
112:26, 132:28,
138:5, 148:3, 150:14,
156:11, 186:27
follow-up [12] - 44:7,
44:16, 58:17, 81:6,
95:24, 97:12, 102:13,
112:1, 112:3, 112:17,
112:26, 156:11
followed [7] - 33:18,
33:24, 79:19, 89:10,
107:6, 150:12, 195:28
FOLLOWING [1] -
1:5
following [23] - 1:26,
29:25, 35:27, 39:2,
47:10, 62:20, 78:14,
83:23, 96:17, 104:18,
107:3, 113:9, 121:15,
144:29, 153:15,
157:27, 159:18,
161:28, 176:3, 188:2,
197:23, 198:8, 198:13
follows [3] - 46:17,
55:5, 110:2
FOLLOWS [6] - 5:2,
5:8, 50:20, 85:2,
107:20, 121:1
foot [4] - 135:4,
146:7, 170:2, 198:29

FOR [15] - 1:8, 2:6, 2:9, 2:14, 2:18, 2:22, 2:26, 2:29, 2:32, 3:11, 3:13, 3:16, 3:19, 3:21, 120:17
force [3] - 72:18, 73:15, 75:18
forgive [3] - 55:29, 147:29, 188:2
form [95] - 5:10, 5:12, 7:25, 8:27, 9:21, 10:20, 11:20, 11:24, 17:2, 21:10, 21:17, 24:23, 32:29, 34:5, 34:7, 34:12, 34:17, 34:24, 36:15, 36:21, 40:7, 41:10, 41:16, 41:20, 41:28, 44:21, 46:29, 58:26, 59:20, 60:19, 60:28, 61:29, 62:28, 76:17, 76:22, 76:24, 77:2, 77:7, 77:8, 78:2, 78:11, 78:12, 80:17, 83:13, 108:8, 135:15, 136:12, 139:8, 140:28, 141:1, 141:17, 142:22, 143:9, 143:11, 143:18, 144:7, 144:21, 144:26, 145:8, 145:24, 146:2, 146:3, 146:6, 146:7, 146:21, 148:10, 148:17, 148:20, 149:4, 149:8, 149:17, 149:19, 149:22, 150:4, 150:18, 151:12, 151:16, 151:21, 153:12, 161:17, 163:23, 164:1, 165:29, 166:19, 167:20, 169:12, 179:1, 189:18, 191:2, 197:20
forma [1] - 36:29
formal [3] - 27:21, 75:21, 79:26
format [1] - 14:14
forming [1] - 60:15
forms [8] - 7:5, 67:14, 76:21, 150:8, 150:11, 157:2, 187:2, 187:7
forward [3] - 85:18, 96:22, 139:24
foster [1] - 68:7
founded [1] - 199:7
four [11] - 31:21, 34:22, 107:27,

125:22, 174:24, 174:27, 175:21, 193:21, 196:5, 196:6
four-drawer [1] - 125:22
fourth [5] - 28:4, 181:27, 193:24, 195:17, 195:21
FRIDAY [2] - 1:18, 5:1
Friday [7] - 8:1, 8:3, 13:2, 59:22, 59:27, 77:12
friends [1] - 172:18
front [23] - 5:13, 9:9, 36:6, 69:9, 69:12, 105:9, 107:24, 120:4, 134:2, 136:23, 136:27, 155:8, 157:8, 158:13, 158:19, 165:26, 171:20, 174:7, 184:17, 188:11, 188:12, 190:25, 190:26
fronting [1] - 133:21
full [2] - 31:19, 77:13
fullness [1] - 31:19
fully [5] - 27:5, 51:10, 54:7, 54:17, 61:19
function [1] - 41:5
furnished [1] - 19:13
further [1] - 117:1
fuse [2] - 99:2
future [3] - 25:13, 30:19, 111:1

G

Gaelic [1] - 192:2
GALLAGHER [2] - 2:29, 2:29
game [1] - 191:14
gap [1] - 98:15
Garda [138] - 7:12, 12:6, 12:16, 12:22, 13:3, 13:18, 19:13, 19:25, 20:19, 27:5, 27:9, 27:10, 31:4, 42:14, 43:2, 44:1, 49:28, 50:13, 51:6, 51:10, 51:12, 51:16, 51:17, 51:25, 51:26, 51:28, 52:2, 52:5, 52:14, 52:19, 52:24, 53:2, 53:12, 53:19, 53:23, 53:28, 54:1, 54:4, 54:11, 55:14, 55:15, 56:24, 56:29,

57:22, 59:13, 62:26, 62:28, 68:15, 70:19, 70:20, 71:23, 72:12, 73:3, 74:24, 75:14, 75:21, 83:5, 84:13, 84:15, 84:25, 85:5, 86:8, 86:23, 89:2, 89:15, 90:15, 90:22, 91:4, 91:16, 91:20, 96:7, 100:15, 108:13, 110:24, 111:2, 124:28, 130:29, 131:5, 131:7, 131:10, 131:11, 131:19, 132:4, 132:15, 138:21, 142:18, 142:25, 143:3, 143:6, 143:11, 143:12, 143:14, 143:18, 143:23, 144:15, 144:17, 144:26, 144:27, 145:4, 145:21, 146:7, 146:21, 146:22, 147:19, 147:25, 148:2, 148:15, 152:17, 154:3, 154:15, 155:3, 156:4, 156:6, 156:20, 156:28, 157:18, 157:28, 158:24, 158:25, 159:13, 159:16, 160:19, 160:21, 160:26, 160:28, 163:3, 163:9, 164:2, 164:16, 165:4, 165:9, 165:13, 165:21, 165:25, 175:10, 181:6, 181:9
garda [21] - 5:17, 6:9, 6:24, 7:10, 7:17, 51:20, 58:18, 73:9, 74:27, 76:1, 131:1, 138:22, 138:23, 181:14, 182:8, 182:16, 183:5, 183:6, 185:12, 186:18, 189:21
GARDA [2] - 3:3, 3:13
Garda's [1] - 89:7
gardai [2] - 44:4, 85:6
Gardaí [65] - 17:22, 17:23, 19:12, 19:18, 26:7, 26:21, 27:14, 27:22, 27:25, 34:25, 42:28, 54:13, 54:14, 55:20, 56:4, 56:14, 56:22, 57:28, 58:2,

59:12, 60:3, 60:17, 60:26, 61:4, 61:10, 61:25, 62:6, 62:22, 63:27, 65:18, 72:23, 74:23, 83:18, 83:26, 98:3, 100:16, 102:23, 103:2, 103:8, 112:2, 115:21, 115:22, 138:28, 143:16, 143:17, 144:1, 144:6, 144:21, 144:22, 144:24, 145:12, 145:16, 145:18, 145:27, 146:1, 146:10, 147:6, 147:11, 148:3, 154:9, 154:20, 154:23, 155:2, 181:28
Gavigan [1] - 73:25
general [6] - 42:24, 72:7, 75:29, 124:16, 125:20, 178:22
generally [18] - 6:2, 6:19, 8:9, 16:2, 39:24, 39:27, 41:23, 41:24, 44:24, 81:3, 102:25, 106:25, 109:6, 115:24, 116:9, 116:13, 118:15, 176:10
generated [8] - 39:2, 45:28, 63:13, 117:17, 135:4, 135:19, 155:29, 197:15
generating [1] - 77:27
generation [1] - 159:16
genesis [1] - 30:3
gentleman [1] - 71:7
Gerry [1] - 134:11
GILLANE [1] - 2:32
girls [2] - 168:5, 168:8
given [24] - 6:28, 17:8, 19:28, 19:29, 20:27, 32:14, 42:13, 44:13, 96:12, 96:13, 123:2, 127:11, 127:13, 128:3, 129:21, 147:27, 171:9, 176:16, 187:6, 187:17, 188:19, 193:13, 194:26
GORDON [1] - 2:15
Government [1] - 131:21
graduated [2] - 121:13, 121:15
grave [1] - 128:15

great [1] - 71:19
green [1] - 37:15
group [2] - 159:12, 196:1
GSOC [1] - 132:4
guarantee [1] - 116:12
guard [19] - 6:26, 7:21, 20:9, 28:1, 49:18, 55:15, 59:14, 60:11, 63:6, 63:8, 63:14, 64:12, 64:14, 71:4, 99:7, 101:29, 102:2, 109:18
guard-notify [1] - 60:11
guards [13] - 12:13, 31:6, 31:7, 63:22, 71:19, 110:16, 146:15, 163:13, 163:18, 164:6, 175:12, 182:20, 182:26
Guards [1] - 86:2
guidance [1] - 34:12
guidelines [1] - 12:28
Guidelines [2] - 35:14, 144:14
guilty [1] - 118:22
GUNNING [1] - 3:21
Gwen [3] - 1:25, 3:28, 3:30
GWEN [1] - 1:30
gyrating [2] - 55:24, 139:3

H

half [2] - 16:2, 16:3
HALIDAY [1] - 2:16
HALL [1] - 2:11
hallway [1] - 172:19
HANAHOE [1] - 3:6
hand [3] - 22:25, 85:23, 140:3
handed [2] - 63:27, 84:12
handling [1] - 40:13
hands [1] - 53:5
handwrite [1] - 6:3
handwriting [14] - 8:27, 10:13, 10:21, 12:24, 32:23, 32:24, 32:26, 32:28, 109:2, 120:3, 136:28, 137:4, 141:18, 141:22
handwritten [5] - 17:4, 20:26, 89:20,

89:23, 142:23
handwrote [1] - 20:26
hang [1] - 105:14
happy [2] - 72:9, 92:18
HARCOURT [1] - 2:25
hard [3] - 92:2, 118:3, 133:17
HARRINGTON [1] - 3:1
HARRISON [1] - 3:3
HARTY [1] - 3:3
hat [1] - 69:27
HATCH [2] - 2:11, 2:11
HAVING [1] - 121:7
HAYES [1] - 3:16
headed [5] - 18:5, 19:11, 38:6, 89:28, 166:2
heading [2] - 11:27, 35:20
headings [1] - 12:5
health [1] - 24:27
Health [10] - 18:15, 18:26, 21:29, 23:5, 24:5, 25:11, 26:6, 26:8, 65:17, 94:11
hear [3] - 28:14, 28:18, 132:24
heard [5] - 44:8, 48:12, 52:10, 87:1, 88:11
HEARING [3] - 5:1, 120:17, 121:1
heavily [1] - 171:14
heed [1] - 104:18
heeding [2] - 102:10, 104:15
HEGARTY [1] - 3:9
HELD [1] - 1:17
held [13] - 23:18, 23:19, 43:1, 69:15, 80:3, 87:27, 88:7, 120:9, 156:6, 170:12, 172:21, 175:15, 197:14
help [6] - 36:17, 47:24, 47:25, 48:1, 139:10, 152:23
helpful [2] - 94:2, 139:17
helping [1] - 116:11
hence [1] - 79:18
heroin [3] - 68:7, 111:22, 114:26
herself [1] - 87:3
Hide [1] - 105:27

hide [9] - 55:22, 138:29, 153:21, 162:17, 180:28, 187:3, 188:28, 189:26, 191:14
high [17] - 29:4, 43:21, 106:26, 106:28, 107:9, 126:23, 126:25, 127:4, 127:9, 128:13, 129:4, 129:10, 129:11, 130:23, 131:11, 134:4
higher [2] - 50:11, 127:21
hindsight [1] - 164:22
historic [1] - 128:25
history [4] - 99:22, 99:26, 100:21, 121:18
history-altering [1] - 99:22
hit [1] - 99:28
hmm [5] - 168:4, 179:3, 190:27, 192:24, 193:26
hold [1] - 121:12
home [10] - 31:28, 36:3, 105:27, 118:24, 153:18, 162:14, 174:8, 174:9, 180:25, 188:24
homes [2] - 68:2, 68:20
hope [3] - 75:5, 147:27, 188:10
hopefully [1] - 97:2
hot [1] - 81:12
hour [1] - 120:15
house [9] - 55:23, 111:3, 139:1, 153:20, 162:17, 172:20, 180:28, 188:27, 189:27
HOUSE [3] - 2:16, 2:20, 3:17
household [5] - 71:3, 119:16, 119:22, 178:29, 196:15
HSE [19] - 2:22, 7:14, 30:26, 34:25, 39:14, 85:27, 87:2, 88:2, 88:13, 88:23, 90:2, 97:23, 102:9, 118:19, 121:21, 124:8, 145:9, 148:23, 180:5
human [1] - 194:3
humping [1] - 172:21
hundred [1] - 59:19
husband [1] - 75:1

hypothetical [2] - 101:9, 101:16

I

idea [4] - 58:1, 128:28, 156:10, 176:8
ideally [1] - 28:29
identical [1] - 181:27
identification [1] - 8:6
identified [24] - 5:16, 6:8, 16:13, 20:14, 30:16, 56:28, 66:6, 66:7, 66:14, 73:8, 73:10, 73:14, 78:28, 98:15, 99:7, 110:23, 111:6, 112:3, 156:19, 160:21, 162:24, 181:2, 183:15, 185:28
identifies [2] - 178:25, 194:10
identify [5] - 20:15, 20:19, 32:25, 33:6, 181:20
identifying [5] - 19:24, 53:5, 171:7, 173:22, 194:1
identity [1] - 122:8
idle [1] - 101:18
ill [2] - 90:25, 91:7
illusion [1] - 61:4
imagine [14] - 10:22, 21:18, 40:5, 40:17, 40:19, 41:8, 57:5, 59:1, 59:22, 81:20, 83:28, 92:3, 101:10, 147:6
immediate [9] - 8:7, 67:18, 68:19, 68:23, 68:24, 129:12, 170:14, 199:4
immediately [9] - 8:2, 31:16, 60:22, 65:8, 68:8, 133:17, 136:6, 149:1, 156:24
implications [1] - 119:13
important [2] - 82:11, 188:14
imposing [1] - 82:24
impressed [1] - 97:3
improved [1] - 25:29
IN [1] - 1:17
inaccurate [1] - 47:23
inappropriate [4] - 63:3, 63:8, 78:2, 79:11

inappropriately [2] - 55:24, 139:2
incest [6] - 111:16, 111:18, 114:25, 128:13, 128:15, 128:16
incident [8] - 67:3, 69:22, 77:20, 153:19, 162:13, 168:24, 180:24, 188:23
incidents [3] - 37:7, 74:20, 154:21
include [3] - 37:6, 38:16, 134:17
included [6] - 37:1, 37:11, 37:29, 39:11, 46:2, 178:23
includes [2] - 67:13, 117:8
including [6] - 23:13, 35:11, 35:29, 39:13, 118:22, 119:11
inconsistent [2] - 105:22, 105:23
incorrect [18] - 14:21, 40:7, 45:22, 46:20, 48:8, 88:9, 94:25, 99:15, 99:27, 101:2, 101:3, 101:20, 102:11, 103:12, 106:4, 117:8, 126:8, 127:4
incorrectly [1] - 192:20
indeed [3] - 88:10, 90:8, 94:26
INDEPENDENT [1] - 3:19
index [3] - 8:29, 9:5, 9:13
INDEX [1] - 4:1
indicate [9] - 36:2, 37:23, 87:1, 91:23, 95:7, 98:7, 98:8, 98:23, 190:2
indicated [4] - 11:17, 40:16, 75:9, 135:2
indicates [8] - 85:17, 86:20, 93:6, 93:7, 94:10, 95:11, 95:12, 142:25
indicating [2] - 106:24, 177:2
indication [4] - 69:5, 95:1, 95:4, 101:26
indigo [1] - 36:13
individual [2] - 122:8, 196:6
inference [1] - 67:20
inform [10] - 66:12,

67:5, 98:5, 116:15, 116:17, 116:20, 117:3, 173:24, 173:26, 187:29
informally [1] - 117:6
information [61] - 8:18, 13:27, 14:5, 17:8, 22:24, 26:24, 27:3, 27:20, 31:7, 41:28, 42:2, 49:3, 49:4, 49:5, 49:16, 49:17, 51:8, 52:7, 57:9, 60:5, 61:13, 61:18, 65:21, 76:15, 81:20, 82:5, 83:20, 94:25, 99:28, 100:3, 104:22, 117:3, 119:18, 120:8, 145:7, 146:24, 153:15, 154:17, 155:24, 155:25, 161:28, 166:23, 167:19, 167:21, 170:28, 171:1, 171:4, 171:7, 171:10, 173:23, 174:16, 175:20, 179:8, 179:28, 179:29, 186:15, 189:8, 190:11, 194:18, 196:22
Information [1] - 120:6
information-sharing [1] - 146:24
informed [14] - 57:1, 105:9, 105:26, 111:4, 112:4, 149:24, 150:26, 153:17, 153:19, 154:8, 154:11, 163:7, 181:7, 191:3
informing [1] - 25:10
initial [7] - 27:29, 34:12, 118:17, 122:2, 124:9, 192:4, 194:1
initials [1] - 83:7
initiated [1] - 102:2
injuries [1] - 111:21
innocuous [1] - 119:18
inputs [1] - 160:27
inquiries [3] - 35:26, 125:26, 153:8
INQUIRY [2] - 1:3, 1:9
inquiry [7] - 28:18, 28:27, 63:16, 71:23, 137:1, 153:5, 155:21
inserted [3] - 163:23, 164:23, 180:1

inside [1] - 140:14
insofar [12] - 9:21, 46:26, 47:21, 88:22, 99:1, 99:21, 99:25, 101:17, 104:14, 107:2, 145:9, 179:4
Inspector [11] - 85:16, 85:17, 85:26, 86:12, 86:16, 86:26, 90:23, 90:24, 97:21, 164:23
inspector [3] - 61:29, 62:4, 82:8
Instagram [1] - 133:2
instance [9] - 26:21, 90:25, 91:4, 117:6, 134:29, 143:19, 146:23, 187:4, 193:15
instead [1] - 61:27
INSTRUCTED [11] - 2:10, 2:15, 2:19, 2:23, 2:27, 3:1, 3:6, 3:11, 3:14, 3:16, 3:22
instruction [10] - 40:12, 62:21, 62:24, 62:25, 90:17, 90:20, 122:28, 123:8, 123:11, 157:27
instructions [5] - 90:17, 92:10, 92:27, 94:1, 94:2
INSTRUMENT [1] - 1:8
insufficient [1] - 154:11
intake [108] - 5:10, 5:12, 6:3, 7:25, 21:10, 22:19, 22:22, 22:23, 30:9, 32:29, 33:2, 33:3, 33:9, 33:11, 34:9, 34:17, 39:23, 40:18, 41:10, 41:13, 41:26, 45:16, 46:28, 47:11, 48:7, 48:9, 59:2, 59:22, 62:25, 76:5, 76:7, 77:3, 77:24, 77:25, 77:29, 80:4, 109:5, 109:23, 110:3, 110:12, 122:5, 123:11, 123:13, 127:18, 134:18, 134:23, 135:3, 136:15, 136:21, 136:24, 136:26, 137:29, 138:2, 140:27, 148:25, 149:2, 150:29, 151:22, 152:28, 155:29, 159:19, 166:14, 166:18, 167:19, 173:7, 175:6, 175:21, 176:5, 176:24, 176:25, 177:13, 177:17, 177:21, 178:21, 180:10, 184:22, 185:9, 185:21, 185:22, 186:17, 186:22, 187:21, 187:23, 189:21, 194:22, 194:29, 195:2, 195:5, 195:6, 195:10, 195:17, 195:24, 195:26, 196:2, 196:24, 197:11, 197:13, 197:14, 197:15, 197:19, 197:24, 198:17, 198:18, 198:20, 198:25, 199:1, 199:4, 199:8
Intake [1] - 142:17
intake/referral [1] - 11:28
intend [1] - 95:4
intended [12] - 11:3, 12:12, 12:14, 12:15, 12:17, 12:18, 66:16, 66:17, 76:21, 95:20, 98:20, 110:15
intending [2] - 11:1, 60:10
intention [7] - 66:29, 83:9, 83:16, 90:29, 114:28, 116:14, 116:23
interactions [1] - 131:5
interest [7] - 71:2, 130:24, 131:8, 131:11, 133:29, 134:9, 154:28
interested [4] - 70:28, 93:1, 133:4, 160:8
interestingly [1] - 185:1
internal [6] - 33:27, 34:23, 35:7, 36:21, 37:15, 76:1
internally [2] - 26:8, 121:26
Internet [2] - 132:26
interpret [2] - 137:8, 137:9
interrupted [1] - 147:28
interrupting [1] - 146:26
interruption [1] - 57:12
intervals [1] - 43:14
intervened [1] - 74:11
intervention [1] - 26:1
interview [6] - 68:28, 69:6, 124:6, 151:12, 158:6, 192:10
interviewed [1] - 65:18
INTO [1] - 1:3
investigated [24] - 17:26, 26:22, 27:5, 51:10, 53:1, 53:15, 53:28, 54:5, 54:7, 54:23, 56:22, 57:29, 60:6, 61:5, 61:19, 65:10, 83:14, 84:1, 98:1, 145:5, 145:13, 147:20, 163:13, 164:18
investigating [6] - 51:6, 58:3, 61:12, 64:17, 65:3, 164:7
investigation [19] - 6:18, 18:10, 18:24, 23:3, 23:24, 27:12, 70:16, 73:7, 73:11, 74:15, 89:17, 93:16, 93:21, 94:19, 95:14, 97:29, 132:5, 145:6, 146:12
investigations [3] - 17:25, 115:29, 170:19
investigative [1] - 23:26
investigators [6] - 70:18, 124:6, 151:13, 158:6, 158:8, 192:10
invite [2] - 118:16, 118:21
involve [1] - 28:26
involved [17] - 26:15, 56:28, 64:23, 72:22, 74:24, 88:17, 102:4, 103:7, 105:11, 115:7, 116:13, 149:25, 162:6, 164:7, 180:17, 188:16, 191:4
involvement [25] - 10:25, 20:23, 21:20, 31:3, 43:17, 43:29, 48:29, 53:11, 58:14, 62:15, 62:26, 69:24, 78:9, 79:23, 83:17, 98:24, 101:23, 102:19, 124:22, 130:7, 134:14, 142:8, 148:4, 148:9, 170:26
involves [1] - 14:18
involving [4] - 58:1, 71:12, 102:23
IRISH [1] - 3:16
irrespective [2] - 110:24, 111:2
issue [6] - 7:21, 92:23, 115:15, 128:25
issues [8] - 7:19, 17:28, 52:20, 70:5, 70:27, 73:10, 75:29, 107:17
it' [1] - 116:28
itself [2] - 6:15, 7:21

J

January [12] - 40:10, 60:27, 85:22, 86:18, 86:24, 87:7, 92:12, 95:28, 96:1, 130:28, 181:14, 182:16
jeopardise [1] - 115:29
job [3] - 66:18, 142:3, 157:23
jogged [6] - 10:23, 21:18, 21:23, 70:10, 72:1, 78:9
JOHN [3] - 3:5, 3:11, 3:22
joined [1] - 10:3
joint [1] - 34:27
jointly [1] - 85:11
JON [1] - 2:23
journals [1] - 132:29
JUDGE [2] - 1:12, 2:3
judge [1] - 92:21
Judge [1] - 45:21
July [6] - 40:8, 48:4, 49:7, 73:2, 74:21, 121:25
JULY [3] - 1:18, 5:1, 199:20
jumped [1] - 137:15
June [3] - 72:29, 74:19, 151:13
Justice [1] - 119:5
JUSTICE [3] - 1:8, 1:12, 2:2

K

KATHLEEN [1] - 2:7
KATHY [1] - 2:19
Kavanagh [1] - 148:22
KAVANAGH [1] - 2:4
KEALY [1] - 3:25
Keara [4] - 5:5, 122:28, 155:10, 157:23
KEARA [2] - 4:4, 5:7
keep [2] - 20:24, 176:18
KEITH [1] - 3:3
KELLY [3] - 2:10, 2:10, 3:20
KENNEDY [1] - 3:1
kept [7] - 19:25, 42:17, 43:5, 43:9, 108:20, 170:10, 170:11
KEVIN [1] - 3:13
KEVIN'S [1] - 2:12
key [2] - 37:1, 38:1
key-worker's [1] - 38:1
kids [1] - 113:17
KIERAN [2] - 2:10, 3:20
KILFEATHER [1] - 3:3
KIMBER [1] - 3:13
kind [6] - 72:7, 100:17, 115:23, 119:1, 119:21, 192:16
knowledge [13] - 19:16, 23:20, 36:10, 49:26, 65:6, 122:16, 123:23, 126:21, 127:6, 127:17, 130:6, 132:11, 142:2
Known [1] - 141:19
known [30] - 7:13, 8:15, 8:18, 8:19, 10:2, 10:8, 10:15, 57:7, 59:10, 59:11, 64:25, 76:12, 76:15, 76:16, 76:26, 77:1, 77:12, 77:20, 77:28, 78:5, 89:12, 89:13, 141:22, 141:26, 142:4, 153:29, 154:23, 156:8, 166:17, 196:9

L

labour [1] - 186:5
lack [1] - 84:15
land [1] - 88:2
landline [1] - 125:4
large [1] - 42:25
last [14] - 65:24, 75:3, 113:23, 119:24, 120:9, 122:20,

122:28, 130:27,
143:25, 155:10,
158:6, 168:18,
171:18, 172:13
late [4] - 31:27,
74:13, 192:17, 199:15
LAURA [2] - 4:10,
121:7
Laura [50] - 11:25,
14:25, 15:12, 17:8,
22:11, 30:9, 38:26,
39:20, 40:15, 40:19,
41:11, 41:16, 41:29,
46:28, 48:11, 49:3,
52:10, 55:7, 55:13,
56:2, 56:12, 57:4,
58:5, 79:26, 81:15,
99:15, 99:28, 101:2,
101:20, 102:10,
102:16, 103:15,
103:21, 109:13,
121:3, 135:27,
138:18, 138:20,
139:8, 148:19,
161:27, 165:15,
166:20, 173:29,
179:20, 190:10,
190:11, 190:21,
192:20, 193:4
LAVERY [1] - 3:17
LAWLOR [1] - 3:11
lead [1] - 160:26
LEADER [35] - 2:7,
4:11, 121:3, 121:8,
121:10, 128:12,
129:15, 135:29,
136:3, 136:6, 136:8,
139:20, 139:29,
140:18, 140:21,
140:23, 145:7, 146:9,
146:27, 148:7,
152:20, 171:23,
178:14, 187:15,
188:4, 188:8, 188:12,
190:19, 190:21,
190:25, 191:8,
191:17, 191:22,
192:13, 194:15
leader [43] - 7:26,
28:22, 39:6, 44:3,
103:14, 103:23,
123:13, 125:24,
127:10, 128:26,
129:5, 135:24,
139:18, 139:21,
143:20, 143:22,
144:19, 145:1,
145:28, 146:28,
147:26, 156:3, 156:6,
157:22, 159:14,

159:18, 159:20,
159:23, 163:26,
165:21, 176:10,
187:13, 187:21,
187:23, 188:1, 188:6,
192:11, 197:19,
197:27, 197:28,
198:8, 198:10, 199:1
leader's [1] - 147:18
leaders [1] - 126:14
leadership [1] -
73:26
leading [1] - 122:5
leads [3] - 9:6, 33:4
least [2] - 7:17, 129:2
leave [12] - 41:24,
91:11, 91:26, 91:28,
92:1, 92:6, 93:8,
93:25, 95:27, 167:29,
188:13, 197:12
led [1] - 53:22
left [17] - 13:16, 17:5,
40:10, 43:19, 47:17,
50:2, 59:2, 62:5,
84:11, 90:9, 113:11,
142:10, 154:21,
155:9, 164:1, 196:29,
198:6
legal [2] - 12:27, 38:6
LEGORBURU [1] -
2:23
LEHANE [1] - 3:11
Leinster [1] - 121:22
length [1] - 60:15
less [3] - 67:27,
67:29, 111:15
letter [141] - 17:3,
18:2, 18:3, 19:16,
20:9, 20:21, 20:26,
21:5, 21:26, 22:9,
22:25, 22:28, 24:13,
24:14, 24:17, 24:24,
25:16, 26:29, 27:11,
28:4, 28:23, 28:28,
29:7, 29:8, 29:13,
29:17, 29:24, 38:24,
39:4, 39:7, 40:18,
41:3, 41:5, 41:8, 42:4,
42:7, 44:6, 51:5,
54:16, 61:28, 62:10,
62:17, 64:10, 65:2,
74:22, 75:3, 79:18,
79:22, 82:10, 82:15,
83:7, 84:3, 84:19,
85:11, 86:12, 87:29,
88:27, 89:20, 90:1,
91:5, 91:7, 91:11,
92:3, 92:6, 92:24,
92:29, 93:7, 93:14,
93:17, 93:19, 93:22,

94:8, 95:2, 95:9,
95:10, 95:11, 95:13,
95:18, 95:23, 96:17,
96:26, 97:4, 97:7,
97:20, 97:26, 97:27,
98:7, 98:11, 98:18,
99:3, 99:12, 99:13,
99:23, 99:27, 100:9,
100:17, 101:2,
102:18, 102:20,
102:23, 102:28,
103:1, 103:3, 103:4,
103:7, 104:7, 104:28,
105:17, 106:9,
106:10, 106:24,
107:3, 107:4, 115:4,
116:25, 117:7,
117:10, 117:13,
117:17, 117:20,
118:10, 118:11,
118:16, 118:17,
118:22, 118:23,
119:1, 119:21,
123:15, 123:19,
155:10, 155:12,
155:14, 155:16,
156:2, 156:4, 156:11,
184:5
letters [6] - 39:13,
39:14, 87:19, 90:5,
183:29
level [5] - 73:11,
97:13, 106:14,
117:19, 132:10
liaise [1] - 143:19
liaising [1] - 75:14
liaison [2] - 75:21,
75:27
life [1] - 7:6
lifting [1] - 6:25
light [1] - 145:29
lighting [1] - 99:1
likelihood [1] -
135:14
likely [4] - 81:8,
129:13, 175:2, 183:4
limited [1] - 69:24
Linda [4] - 160:25,
164:1, 164:28, 165:9
line [9] - 57:24,
100:25, 109:3,
109:13, 111:15,
143:20, 143:25,
144:3, 187:15
lines [2] - 107:26,
107:27
list [4] - 30:21, 43:21,
141:7, 185:5
listen [2] - 72:9,
132:19

lit [1] - 99:2
LITTLE [1] - 2:21
living [5] - 68:2,
166:13, 177:14,
177:15, 177:16
loaded [1] - 55:2
loaned [1] - 3:29
local [2] - 64:28,
73:11
located [7] - 87:21,
104:14, 108:1,
151:11, 151:16,
159:2, 169:25
location [2] - 153:27,
153:28
lock [1] - 31:17
locked [1] - 43:5
log [1] - 13:24
LONGFORD [1] -
3:24
look [22] - 5:11, 8:10,
14:13, 15:21, 16:7,
31:11, 32:6, 45:26,
50:23, 56:2, 56:5,
57:13, 57:20, 57:27,
107:22, 108:23,
113:8, 113:15,
115:13, 117:27,
138:12, 145:24
looked [7] - 16:6,
59:24, 91:21, 101:19,
146:4, 171:26, 171:28
looking [13] - 5:21,
18:2, 28:5, 57:13,
58:28, 89:28, 98:8,
101:27, 102:1,
137:16, 150:8,
170:29, 194:4
looks [3] - 32:27,
86:5, 189:4
Lorraine [1] - 174:24
lost [4] - 45:24,
48:23, 105:5, 138:10
loudest [1] - 6:23
low [10] - 126:23,
126:25, 127:5, 127:9,
127:20, 128:24,
129:14, 129:16,
129:20, 129:26
LOWER [1] - 2:11
Lowry [2] - 134:11,
159:11
LUNCH [2] - 120:17,
121:1
lying [1] - 140:12

M

MADE [2] - 1:3, 1:8

made [1] - 154:4
mail [2] - 143:11,
165:7
main [1] - 42:20
maintain [1] - 20:13
maintained [1] -
126:9
MAIRE [1] - 3:13
major [2] - 70:22,
71:23
majority [4] - 43:8,
43:11, 44:15, 113:26
male [2] - 18:20,
178:18
MALONE [1] - 1:30
Malone [3] - 1:25,
3:28, 3:30
man [10] - 56:28,
91:25, 93:16, 101:6,
113:16, 147:1, 147:3,
147:4, 172:19
manage [1] - 193:7
management [3] -
24:18, 49:25, 73:8
manager [2] -
134:11, 143:21
manner [1] - 3:29
manuscript [2] -
62:17, 79:22
March [1] - 131:9
mark [3] - 61:23,
141:23, 169:9
MARK [2] - 3:3, 3:16
marked [6] - 19:16,
35:8, 90:2, 90:6,
90:22, 91:5
marriage [1] - 72:13
married [9] - 70:19,
71:5, 71:10, 72:12,
72:24, 72:25, 74:27,
74:28, 93:23
MARRINAN [1] - 2:6
marry [1] - 71:9
MARTIN [1] - 3:9
Mary [5] - 24:20,
79:3, 91:16, 91:19,
184:7
mash [1] - 190:2
Master's [1] - 121:16
material [7] - 51:15,
52:11, 53:14, 53:18,
101:12, 194:26,
195:16
materially [1] -
101:13
materials [9] - 121:5,
133:15, 133:16,
134:16, 157:7,
171:17, 174:13,
175:27, 184:6

matter [57] - 7:20, 7:22, 17:13, 17:18, 17:26, 19:9, 26:6, 44:4, 52:7, 52:23, 53:4, 53:25, 53:27, 54:5, 58:25, 59:5, 64:9, 64:11, 65:23, 67:21, 68:17, 69:26, 69:29, 71:2, 72:13, 77:17, 77:23, 79:14, 79:24, 82:12, 93:20, 93:29, 96:21, 96:28, 101:25, 102:7, 106:25, 112:18, 117:11, 118:13, 141:26, 143:16, 144:6, 144:11, 145:4, 145:13, 147:19, 155:22, 163:13, 163:22, 164:7, 164:17, 164:18, 174:28, 185:10, 185:11, 185:25

matters [5] - 19:14, 27:5, 51:9, 130:15, 174:11

MATTERS [1] - 1:5

MAURICE [1] - 109:7

Maurice [50] - 8:29, 9:3, 9:10, 10:26, 21:22, 30:26, 32:21, 47:4, 50:23, 55:14, 55:16, 55:22, 55:23, 56:28, 57:8, 70:7, 72:6, 74:10, 74:13, 77:6, 79:8, 89:3, 92:25, 98:8, 98:20, 102:18, 109:3, 109:7, 112:4, 113:2, 118:1, 118:5, 125:14, 130:20, 133:26, 137:21, 138:21, 138:23, 139:1, 147:12, 154:20, 162:25, 167:16, 168:12, 174:17, 181:2, 181:17, 183:14, 186:22

McC [1] - 94:18

McCabe [125] - 2:14, 8:25, 9:1, 9:4, 9:11, 10:26, 17:28, 19:23, 20:2, 21:22, 21:24, 25:5, 25:9, 25:17, 26:4, 30:26, 32:21, 47:4, 50:23, 55:14, 55:16, 56:28, 57:9, 65:9, 65:15, 65:28, 66:3, 66:18, 68:29, 69:6, 69:11, 70:7, 70:26, 71:12, 72:6, 74:11, 74:13, 76:29, 77:6, 77:25, 77:27, 78:1, 78:8, 78:11, 78:25, 78:29, 79:8, 79:12, 89:4, 98:6, 98:12, 98:21, 98:26, 102:18, 110:9, 110:28, 112:4, 113:2, 114:11, 117:2, 118:1, 118:6, 123:12, 123:14, 130:16, 130:20, 131:2, 131:4, 131:7, 131:19, 131:22, 132:6, 132:11, 132:14, 133:6, 134:6, 134:9, 137:21, 138:21, 138:23, 147:12, 151:9, 154:20, 160:10, 162:25, 163:2, 166:6, 166:8, 166:23, 166:24, 167:6, 169:7, 169:17, 170:19, 172:3, 172:6, 172:11, 172:26, 173:5, 173:20, 174:17, 175:1, 175:29, 176:27, 178:5, 181:3, 181:4, 181:5, 181:17, 181:23, 183:14, 183:26, 184:10, 184:19, 185:3, 185:15, 186:1, 186:22, 195:1, 195:3, 195:11, 195:17, 196:8

McCabe [1] - 162:26

McCabe" [2] - 109:3, 133:26

McCabe' [1] - 92:25

McCabe's [32] - 5:15, 26:26, 29:9, 29:12, 30:17, 32:15, 51:27, 55:23, 65:22, 70:9, 70:23, 71:24, 72:20, 83:20, 98:3, 98:9, 125:14, 130:4, 130:7, 130:10, 131:16, 132:3, 133:12, 139:1, 158:9, 158:21, 166:18, 167:3, 167:16, 171:4, 184:23, 186:18

McCabes [1] - 171:1

McDERMOTT [1] - 2:26

McDowell [30] - 2:14, 14:29, 15:3, 45:20, 50:19, 50:21, 55:5, 55:29, 56:6, 56:16, 57:25, 57:27, 58:7, 58:9, 58:21, 63:20, 64:15, 72:11, 72:15, 72:18, 73:2, 74:5, 75:3, 75:13, 100:20, 171:22, 178:12, 199:13, 199:17

MCDOWELL [1] - 4:6

mcDOWELL [1] - 84:23

McGARRY [1] - 2:14

McGlone [28] - 5:5, 5:9, 14:27, 14:29, 15:7, 47:24, 48:16, 50:16, 50:19, 50:21, 56:8, 74:8, 84:20, 85:1, 85:4, 94:10, 97:20, 100:28, 103:11, 106:3, 107:19, 111:11, 122:28, 123:13, 136:16, 148:25, 155:11, 155:18

McGLONE [2] - 4:4, 5:7

McGlone's [1] - 157:23

MCGUINNESS [4] - 2:6, 4:5, 4:8, 5:8

McGuinness [53] - 2:19, 3:11, 5:4, 5:9, 14:16, 14:20, 14:28, 15:4, 15:10, 15:13, 15:15, 15:19, 15:22, 15:24, 30:25, 30:27, 30:29, 35:1, 35:4, 35:6, 44:27, 45:1, 45:4, 45:6, 45:8, 45:16, 45:19, 45:25, 46:2, 46:7, 46:11, 46:14, 46:16, 46:25, 46:27, 47:6, 47:9, 47:15, 47:24, 48:2, 48:11, 48:14, 48:16, 48:20, 48:25, 50:16, 68:12, 76:2, 107:16, 107:19, 107:22, 111:7, 111:9

mean [24] - 10:26, 12:12, 12:27, 25:6, 39:28, 58:21, 74:11, 75:11, 78:14, 82:20, 82:24, 83:24, 93:29, 100:15, 110:20, 112:19, 113:12, 116:10, 119:14, 141:25, 146:2, 147:17, 189:11, 191:20

means [2] - 12:26, 196:21

meant [2] - 137:6, 147:15

Measuring [13] - 106:18, 126:9, 126:11, 126:19, 126:21, 127:2, 127:8, 127:13, 127:16, 127:25, 128:2, 128:6, 129:6

measuring [3] - 13:6, 30:20, 50:5

media [14] - 70:27, 130:24, 131:11, 131:13, 131:18, 132:12, 132:29, 133:1, 133:4, 133:6, 133:29, 134:4, 134:5, 154:28

MEDIA [1] - 3:20

medical [1] - 38:9

medium [9] - 126:23, 126:25, 127:4, 127:9, 128:20, 129:13, 129:16, 129:20, 129:26

meet [20] - 18:1, 18:29, 19:3, 28:7, 28:10, 54:4, 61:11, 65:19, 67:4, 67:8, 92:24, 96:13, 100:12, 113:2, 117:11, 118:5, 118:9, 118:12, 124:27, 155:18

meeting [52] - 6:1, 12:5, 13:17, 13:22, 13:26, 13:28, 14:6, 14:9, 15:29, 17:24, 17:27, 21:2, 21:11, 22:14, 25:9, 27:11, 27:25, 33:4, 37:23, 39:3, 40:26, 44:1, 50:3, 50:4, 51:18, 51:20, 54:19, 60:22, 80:3, 82:22, 82:27, 83:27, 87:11, 101:10, 103:5, 109:21, 110:4, 114:11, 115:18, 118:4, 118:21, 184:18, 185:2, 185:4, 185:14, 187:22, 187:26, 197:17, 197:19, 197:22, 198:4, 198:9

meetings [15] - 14:5, 16:1, 16:5, 27:13, 27:14, 37:21, 37:23, 43:1, 43:3, 50:1, 50:5, 75:27, 115:20, 115:22, 185:29

member [20] - 31:4, 31:6, 31:7, 49:28, 51:6, 61:12, 65:4, 68:14, 70:19, 72:12, 72:22, 73:15, 83:5, 89:2, 125:13, 154:20, 154:23, 155:2, 160:25, 164:16

MEMBER [2] - 1:12, 2:2

members [11] - 43:2, 50:13, 73:19, 74:22, 75:5, 75:14, 124:27, 124:28, 125:8, 163:3, 181:6

memorandum [1] - 165:23

memory [15] - 10:23, 21:19, 21:23, 59:1, 70:10, 71:18, 72:1, 124:2, 126:2, 143:8, 157:6, 159:24, 160:5, 160:16, 184:3

mention [2] - 42:5, 98:11

mentioned [6] - 72:29, 104:20, 155:3, 189:23, 191:20, 193:21

merely [2] - 82:25, 97:14

met [21] - 18:26, 23:5, 24:5, 24:19, 24:27, 25:18, 25:21, 26:9, 66:12, 97:23, 98:16, 110:9, 113:24, 115:12, 116:24, 117:2, 117:5, 117:24, 184:10, 184:19, 185:15

method [1] - 117:9

Michael [1] - 50:21

MICHAEL [6] - 2:14, 2:22, 3:5, 3:6, 3:9, 3:25

might [19] - 20:6, 20:20, 62:29, 63:23, 66:24, 83:8, 88:8, 88:12, 88:22, 99:1, 100:5, 100:14, 108:25, 114:5, 115:14, 128:20, 128:24, 134:3, 137:10

mill [2] - 83:2, 83:10

mind [7] - 14:17, 51:23, 61:9, 61:23, 68:26, 80:21, 188:6

mine [1] - 45:24

MINISTER [1] - 1:8

minor [1] - 73:10
minute [5] - 21:4, 24:12, 167:23, 169:21, 184:17
minutes [3] - 37:21, 82:26, 83:12
misdescribing [1] - 106:6
mish [1] - 190:2
mish-mash [1] - 190:2
misinterpreting [2] - 58:11, 58:20
missing [2] - 47:23, 112:15
misspelt [2] - 5:15, 137:21
misunderstanding [2] - 57:26, 114:21
MMC [1] - 115:15
MMcC [5] - 18:12, 18:21, 19:23, 20:3, 65:7
mobile [2] - 19:6, 96:11
Mode [3] - 139:14, 139:29, 141:1
moment [4] - 30:29, 32:8, 34:19, 99:22
Monaghan [21] - 19:3, 64:24, 64:28, 65:5, 70:20, 71:13, 71:25, 73:3, 75:19, 87:22, 87:28, 92:4, 96:10, 108:21, 121:24, 121:27, 122:6, 122:14, 170:13, 175:18
Monaghan' [1] - 96:13
Monday [19] - 13:17, 13:29, 14:9, 14:11, 16:20, 40:26, 59:24, 60:21, 61:3, 61:23, 63:1, 63:4, 64:15, 80:9, 197:17, 197:23, 198:9, 198:13, 199:15
MONDAY [1] - 199:20
month [2] - 44:15, 125:28
monthly [1] - 38:1
months [5] - 37:1, 48:18, 48:19, 93:2, 96:18
MORAN [1] - 3:14
morning [7] - 5:5, 31:29, 40:26, 53:26, 62:8, 155:17, 197:18
MORRIS [1] - 109:8

most [4] - 6:20, 36:6, 42:23, 43:8
mother [3] - 178:25, 179:2, 180:6
mother's [1] - 161:6
moved [2] - 66:16, 139:13
MR [132] - 1:12, 2:2, 2:4, 2:6, 2:6, 2:9, 2:10, 2:14, 2:14, 2:15, 2:18, 2:18, 2:19, 2:22, 2:23, 2:23, 2:24, 2:26, 2:29, 2:32, 3:1, 3:3, 3:5, 3:5, 3:9, 3:11, 3:11, 3:13, 3:16, 3:20, 3:21, 3:25, 4:5, 4:6, 4:7, 4:8, 5:4, 5:8, 5:9, 14:20, 14:28, 14:29, 15:3, 15:4, 15:10, 15:13, 15:15, 15:22, 15:24, 30:27, 30:29, 35:4, 35:6, 45:1, 45:4, 45:6, 45:8, 45:16, 45:19, 45:20, 45:25, 46:2, 46:11, 46:14, 46:16, 46:25, 46:27, 47:6, 47:9, 47:15, 48:2, 48:11, 48:14, 48:16, 48:20, 48:25, 50:16, 50:19, 50:21, 55:5, 56:6, 56:16, 58:9, 58:21, 63:20, 64:15, 72:11, 72:18, 73:2, 73:29, 74:5, 75:3, 75:9, 75:13, 84:23, 84:28, 85:1, 90:19, 90:27, 91:9, 91:23, 91:29, 92:5, 92:9, 92:15, 93:4, 93:15, 94:4, 96:21, 97:10, 97:19, 100:10, 100:18, 100:27, 103:11, 105:7, 105:13, 105:17, 106:2, 107:11, 107:13, 107:15, 107:16, 107:19, 107:22, 111:7, 111:9, 171:22, 178:12, 199:13, 199:17
MS [52] - 2:7, 2:7, 2:9, 2:19, 3:1, 3:9, 3:13, 3:14, 3:21, 3:22, 4:4, 4:10, 4:11, 5:7, 50:19, 85:1, 107:19, 111:11, 121:3, 121:7, 121:8, 121:10, 128:12, 129:15, 135:29, 136:3, 136:6, 136:8, 139:20,

139:29, 140:18, 140:21, 140:23, 145:7, 146:9, 146:27, 148:7, 152:20, 171:23, 178:14, 187:15, 188:4, 188:8, 188:12, 190:19, 190:21, 190:25, 191:8, 191:17, 191:22, 192:13, 194:15
MTP [5] - 12:22, 13:5, 13:19, 127:8, 127:17
MULLAN [1] - 2:7
Murphy [16] - 23:22, 25:1, 25:16, 25:19, 79:3, 79:17, 171:19, 172:4, 172:13, 173:29, 174:7, 174:10, 174:15, 174:21, 183:29, 184:7
Murphy's [3] - 24:12, 24:24, 172:24
must [7] - 3:29, 17:12, 24:11, 61:26, 68:19, 182:19
mystery [2] - 74:28, 75:10
mystified [1] - 80:20
MICHEÁL [1] - 2:18
Micheál [1] - 85:4

N

Name [2] - 109:3, 166:3
name [67] - 5:15, 9:19, 10:26, 20:18, 21:18, 21:23, 23:10, 23:21, 27:4, 30:20, 32:21, 39:6, 50:21, 51:9, 57:17, 57:19, 65:11, 70:7, 70:9, 70:10, 71:29, 74:10, 74:14, 85:4, 105:26, 109:7, 109:8, 130:20, 133:25, 133:26, 134:2, 149:7, 150:23, 151:4, 151:11, 151:23, 152:1, 152:9, 152:14, 153:4, 161:4, 161:6, 163:24, 167:27, 168:26, 178:5, 189:17, 191:20, 191:21, 191:25, 191:27, 192:2, 192:3, 192:7, 193:3, 193:8, 193:15, 193:16, 193:21,

193:25, 194:5, 194:9, 195:6, 197:3
named [7] - 1:27, 79:6, 90:11, 90:29, 161:11, 168:5, 168:18
names [16] - 46:19, 105:23, 105:25, 152:3, 166:29, 168:3, 168:20, 168:26, 170:24, 174:27, 179:4, 189:13, 191:27, 192:21, 193:5
narrative [1] - 161:24
National [2] - 120:6, 144:14
national [7] - 34:12, 107:29, 118:27, 119:27, 121:13, 126:27, 154:28
nature [6] - 32:2, 95:8, 108:12, 124:20, 151:3, 165:19
NCIS [1] - 120:7
near [1] - 159:2
nearly [2] - 42:18, 90:4
necessarily [7] - 6:11, 6:14, 6:27, 43:15, 63:23, 114:5, 115:26
necessary [4] - 61:24, 113:21, 143:19, 154:15
necessity [2] - 88:13, 88:24
need [20] - 17:21, 26:1, 27:8, 51:11, 51:19, 56:13, 58:6, 61:1, 92:27, 112:1, 112:3, 112:17, 112:26, 114:26, 117:1, 118:9, 126:12, 142:1, 174:21, 196:5
needed [7] - 21:7, 44:5, 68:7, 83:23, 110:23, 114:19, 174:15
needn't [1] - 83:24
needs [1] - 14:7
negated [2] - 63:14, 99:6
neglect [1] - 68:6
never [19] - 11:21, 16:21, 22:9, 29:22, 29:29, 42:8, 44:19, 44:21, 48:29, 62:6, 63:17, 66:2, 80:18, 80:27, 82:7, 102:26, 109:28, 115:6, 115:10
new [19] - 22:22,

27:15, 27:16, 56:2, 56:9, 56:12, 58:4, 69:27, 80:11, 83:27, 117:18, 118:26, 118:28, 119:26, 124:19, 197:15, 198:29
new' [1] - 64:7
news [6] - 70:28, 132:19, 132:22, 132:23, 132:25, 132:28
NEWS [1] - 3:19
newspapers [3] - 132:17, 132:21, 132:26
NEWSPAPERS [1] - 3:25
next [51] - 8:10, 8:11, 8:28, 9:6, 11:9, 13:12, 32:17, 33:26, 34:22, 35:6, 35:7, 35:23, 35:25, 35:27, 36:1, 36:4, 36:13, 37:15, 38:5, 38:23, 39:9, 39:11, 47:16, 77:11, 105:21, 108:29, 109:3, 109:13, 109:15, 109:16, 121:3, 122:19, 126:1, 133:17, 134:15, 136:9, 140:8, 140:12, 148:17, 149:14, 149:22, 153:14, 155:9, 156:16, 161:14, 162:22, 162:29, 164:25, 174:20, 187:27, 195:9
NIALL [1] - 2:9
night [1] - 31:28
nine [2] - 16:2, 132:23
nobody [8] - 13:4, 65:14, 65:17, 81:19, 92:8, 112:28, 113:7, 125:12
nobody's [3] - 81:14, 82:2, 82:3
Noel [17] - 17:3, 18:4, 23:21, 85:16, 88:28, 89:11, 91:10, 93:5, 93:15, 100:4, 101:29, 102:9, 102:13, 104:8, 106:24, 123:16, 155:11
non [4] - 93:22, 95:29, 99:22, 107:3
non-answering [1] - 93:22

non-follow-up [1] - 95:29
non-following-up [1] - 107:3
non-responding [1] - 99:22
none [4] - 14:20, 31:5, 75:25, 129:8
nonetheless [1] - 90:6
normal [7] - 92:22, 134:22, 137:28, 143:8, 143:15, 160:24, 170:22
normally [3] - 36:10, 38:3, 164:15
note [22] - 14:17, 18:23, 23:2, 55:5, 55:9, 60:2, 60:6, 62:8, 72:14, 94:18, 138:2, 142:23, 143:2, 157:14, 157:17, 166:7, 167:11, 170:17, 175:25, 178:16, 181:12
noted [5] - 21:17, 56:21, 124:14, 132:7, 187:10
notes [13] - 1:27, 12:20, 36:5, 36:7, 36:8, 168:9, 172:4, 172:14, 172:24, 174:8, 176:11, 176:18, 177:2
notes/contacts [1] - 35:11
nothing [15] - 11:10, 37:13, 63:1, 64:7, 67:11, 74:18, 95:7, 103:8, 131:16, 148:16, 188:18, 189:27, 196:13, 196:14, 196:15
notice [6] - 36:6, 161:11, 191:24, 191:26, 192:4, 192:7
noticed [2] - 64:16, 150:11
noticing [4] - 189:5, 189:12, 189:22, 194:8
notification [66] - 6:23, 27:22, 34:14, 34:24, 36:19, 36:21, 41:16, 46:29, 49:18, 51:21, 59:13, 62:1, 63:6, 63:14, 64:12, 64:14, 79:27, 84:18, 95:18, 99:7, 99:15, 101:3, 101:7, 101:20, 101:28, 102:2,

103:12, 110:15, 134:18, 139:8, 143:11, 143:12, 143:14, 143:18, 146:8, 146:11, 146:21, 148:15, 152:17, 154:15, 156:6, 156:20, 156:29, 157:10, 158:14, 158:25, 158:26, 159:13, 159:16, 159:21, 160:15, 164:3, 165:4, 165:9, 165:13, 165:21, 165:26, 181:15, 181:28, 182:17, 183:6, 186:18, 189:21
notification' [1] - 81:17
notifications [2] - 160:27, 161:15
notified [12] - 12:6, 12:15, 51:19, 53:19, 60:27, 84:1, 84:16, 142:18, 143:17, 163:18, 182:21, 185:12
notify [41] - 12:12, 12:16, 12:22, 12:29, 13:3, 13:18, 27:9, 27:10, 28:1, 28:2, 51:12, 54:1, 59:12, 59:14, 60:3, 60:11, 60:17, 61:9, 61:24, 62:6, 62:21, 62:28, 63:8, 63:21, 84:13, 109:18, 110:13, 143:3, 143:7, 143:23, 144:15, 144:17, 145:16, 146:7, 146:20, 147:19, 147:25, 156:4, 157:18, 157:28, 183:5
notify" [1] - 142:25
notifying [6] - 27:16, 27:28, 143:16, 145:12, 163:17, 182:25
notion [1] - 97:3
notoriety [1] - 160:9
notwithstanding [1] - 96:19
November [2] - 24:21, 92:12
nowadays [3] - 57:15, 119:25
nowhere [1] - 167:7
number [42] - 5:21, 7:13, 8:15, 11:10,

11:27, 12:4, 16:19, 19:6, 32:10, 32:11, 32:14, 32:18, 71:19, 73:10, 96:11, 96:12, 96:13, 98:9, 131:25, 139:5, 139:15, 139:27, 141:7, 141:19, 142:11, 149:8, 150:13, 155:9, 161:19, 163:27, 174:11, 174:12, 178:2, 179:1, 179:13, 179:19, 180:9, 181:20, 188:10, 190:22, 197:2
numbers [3] - 28:12, 97:5, 115:5

O

o'clock [4] - 132:22, 132:23, 199:15, 199:18
O'DONNELL [1] - 2:23
O'Higgins [12] - 74:7, 84:26, 85:4, 90:16, 91:14, 92:2, 92:20, 93:12, 94:1, 96:7, 97:17, 105:4
O'HIGGINS [31] - 2:18, 3:5, 4:7, 73:29, 75:9, 84:28, 85:1, 90:19, 90:27, 91:9, 91:23, 91:29, 92:5, 92:9, 92:15, 93:4, 93:15, 94:4, 96:21, 97:10, 97:19, 100:10, 100:18, 100:27, 103:11, 105:7, 105:13, 105:17, 106:2, 107:11, 107:13
O'Neill [9] - 85:11, 85:27, 85:28, 86:12, 90:23, 90:24, 91:16, 91:19
O'Reilly [3] - 24:29, 79:4, 184:7
O'REILLY [1] - 3:13
O'Toole [1] - 91:4
objective [1] - 88:22
obligation [2] - 97:6, 145:15
obligations [1] - 57:20
obliged [2] - 100:16, 106:2
observations [1] - 76:6
obtain [1] - 26:26

obtained [3] - 86:7, 87:2, 88:12
obtaining [2] - 25:9, 194:12
obviate [1] - 88:12
obviated [1] - 88:24
obvious [3] - 72:22, 119:14, 182:19
obviously [29] - 5:15, 6:16, 6:19, 7:25, 9:7, 10:24, 14:21, 24:8, 25:1, 26:18, 27:18, 33:13, 39:6, 40:6, 41:10, 41:18, 44:18, 47:1, 47:2, 49:26, 63:13, 82:14, 99:23, 109:27, 110:2, 112:9, 146:6, 167:18, 185:20
occasion [4] - 36:5, 162:8, 180:19, 188:17
occupied [2] - 121:29, 125:3
occupying [2] - 124:15, 125:1
occur [3] - 16:1, 164:5, 185:24
occurred [13] - 49:20, 67:3, 73:28, 74:6, 99:23, 102:17, 128:21, 162:8, 162:13, 180:19, 180:24, 188:17, 188:23
occurs [1] - 126:28
October [9] - 24:16, 44:14, 79:4, 92:11, 93:9, 121:22, 121:25, 122:13, 184:7
OF [8] - 1:3, 1:9, 1:12, 2:3, 5:1, 84:23, 107:13, 111:9
offences [1] - 56:10
offer [1] - 65:21
office [23] - 9:7, 16:2, 19:6, 20:1, 23:18, 29:2, 36:3, 42:20, 43:3, 65:5, 80:18, 90:12, 93:10, 96:12, 104:6, 118:28, 119:11, 121:25, 126:27, 152:15, 159:2, 170:11, 170:13
OFFICE [1] - 2:20
officer [2] - 64:17, 163:29
offices [1] - 43:10
official [3] - 91:3, 97:9, 100:17
often [2] - 33:9, 90:12

OK [1] - 30:1
old [4] - 54:16, 69:27, 162:9, 180:20
ON [4] - 1:6, 1:10, 1:18, 5:1
once [6] - 114:20, 136:6, 158:24, 172:5, 173:4, 197:10
one [48] - 11:5, 11:17, 11:19, 14:18, 15:11, 18:1, 29:3, 36:13, 38:5, 50:10, 50:22, 56:11, 59:9, 86:5, 95:13, 100:4, 100:14, 105:20, 109:16, 111:16, 112:25, 113:9, 113:19, 114:25, 119:14, 128:25, 131:25, 131:26, 132:10, 150:8, 150:29, 158:12, 162:8, 169:28, 172:3, 173:13, 180:19, 184:18, 186:28, 188:17, 190:14, 192:2, 193:21, 194:29, 195:13
ones [5] - 50:11, 119:14, 128:29, 129:1, 129:2
ongoing [4] - 68:8, 78:21, 106:16, 111:18
onwards [2] - 22:12, 34:20
open [17] - 10:7, 21:7, 30:4, 36:23, 43:3, 78:1, 90:24, 91:7, 98:12, 102:3, 119:16, 124:23, 125:23, 126:15, 134:15, 136:6, 166:14
opened [59] - 9:1, 19:20, 19:29, 20:6, 22:15, 22:26, 27:15, 29:26, 29:27, 30:5, 30:6, 30:19, 30:26, 53:27, 63:26, 79:2, 81:1, 81:2, 81:4, 90:10, 90:13, 90:25, 91:18, 91:20, 91:25, 91:26, 91:27, 92:6, 92:8, 93:7, 98:21, 98:26, 98:28, 98:29, 99:9, 110:4, 116:13, 116:21, 116:22, 118:24, 122:27, 123:3, 135:13, 135:26, 137:12, 148:18, 155:8,

155:12, 155:16,
170:1, 177:13,
177:17, 185:20,
198:18, 198:26,
199:1, 199:5, 199:8
Opening [1] - 132:7
opening [7] - 21:8,
90:9, 92:3, 92:17,
185:8, 198:17, 198:20
operated [1] - 198:14
opportunity [5] -
20:16, 31:25, 125:9,
125:29, 130:8
opposed [1] - 91:16
options [1] - 161:19
order [9] - 31:16,
36:6, 37:8, 38:23,
125:25, 125:27,
126:14, 157:1, 170:18
orders [1] - 38:8
ordinarily [2] - 40:5,
90:2
ordinary [2] - 83:1,
144:16
original [11] - 15:9,
16:8, 45:9, 65:15,
107:23, 108:16,
110:5, 110:20,
174:28, 192:2, 192:3
originally [1] -
165:29
Orla [5] - 85:12,
85:27, 85:29, 86:12,
86:17
OSMOND [1] - 2:20
OTHER [1] - 1:4
otherwise [1] - 199:4
ought [5] - 17:20,
39:19, 100:5, 100:15,
110:26
ourselves [1] - 52:3
outcome [8] - 23:23,
74:20, 98:2, 111:3,
145:6, 145:8, 148:5,
156:7
Outcome [1] -
109:17
outlets [1] - 152:8
outline [1] - 121:10
outlined [2] - 69:25,
160:12
outlines [1] - 152:9
outlining [2] - 37:28,
79:18
outs [1] - 89:12
outset [2] - 152:8,
194:10
outside [1] - 184:20
outstanding [26] -
13:20, 25:2, 25:4,

25:8, 25:23, 26:4,
26:12, 26:13, 26:17,
26:20, 30:16, 33:14,
52:2, 52:20, 56:23,
58:12, 66:6, 78:28,
79:20, 99:8, 110:22,
111:6, 112:13, 113:3,
114:12
overleaf [1] - 168:28
overlooked [5] -
152:18, 153:10,
193:29, 194:7, 194:13
oversight [4] - 29:3,
152:7, 191:23, 194:3
own [5] - 9:16,
28:27, 43:9, 59:6,
61:8

P

page [110] - 5:11,
8:10, 8:11, 8:14,
13:12, 14:14, 18:2,
21:16, 26:28, 31:12,
32:10, 32:11, 32:12,
32:17, 34:20, 36:26,
38:26, 39:29, 40:1,
41:14, 45:13, 50:24,
54:23, 59:18, 76:4,
76:11, 86:5, 86:15,
88:26, 94:4, 103:13,
103:16, 103:20,
103:27, 105:9,
105:16, 105:20,
105:21, 107:22,
108:23, 108:28,
108:29, 109:10,
109:15, 121:5,
133:16, 134:15,
134:16, 136:8, 136:9,
136:26, 139:13,
139:27, 140:23,
141:17, 141:18,
143:25, 148:21,
152:9, 152:10,
152:11, 152:12,
152:13, 152:14,
153:15, 155:11,
156:16, 157:5, 157:7,
157:12, 160:18,
161:23, 164:26,
165:24, 168:27,
171:22, 171:23,
172:12, 174:6,
174:10, 174:12,
174:20, 175:26,
177:19, 184:5,
184:16, 190:22,
190:25, 191:2,
191:11, 192:26,

192:28, 194:16,
195:2, 195:9, 195:10,
195:16, 195:23,
196:2, 196:7, 196:27
PAGE [1] - 4:2
pages [5] - 34:22,
86:16, 140:14, 196:4,
196:6
paper [5] - 20:28,
88:4, 88:5, 140:2,
143:10
paragraph [8] -
22:28, 28:4, 76:11,
143:26, 162:2,
172:13, 182:13, 186:6
paragraphs [1] -
181:27
pardon [2] - 93:2,
123:5
parental [1] - 38:8
parents [16] -
105:26, 153:17,
153:19, 154:8,
162:14, 162:15,
163:7, 178:23, 180:3,
180:25, 180:26,
181:7, 188:24,
188:26, 196:14
parents/carers [2] -
35:25, 180:4
parents/guardians
[1] - 179:25
PARLIAMENT [1] -
3:7
part [37] - 23:18,
25:11, 31:3, 33:29,
34:22, 36:10, 37:12,
37:29, 38:3, 38:21,
39:1, 50:25, 57:26,
57:27, 65:18, 66:26,
67:8, 73:14, 86:3,
87:2, 97:21, 97:26,
100:10, 100:12,
100:13, 107:2, 152:7,
153:20, 162:16,
171:11, 178:15,
180:27, 185:26,
188:27, 191:23,
194:3, 194:21
partial [2] - 195:5,
195:20
particular [20] - 8:3,
44:8, 50:3, 54:28,
60:2, 76:3, 81:3, 91:5,
91:9, 91:24, 106:17,
109:23, 113:9,
124:11, 130:2,
130:14, 134:14,
135:6, 159:24, 160:9
particularly [6] -

44:14, 47:11, 70:28,
73:25, 82:13, 176:21
parties [2] - 142:4,
171:11
partner [2] - 55:15,
138:22
parts [1] - 31:21
party [3] - 3:30, 57:4,
73:27
pass [1] - 55:3
PASSED [1] - 1:5
passing [1] - 93:26
past [5] - 133:8,
145:18, 148:4, 148:9,
170:26
paste [2] - 189:16,
193:10
pasted [1] - 182:7
PATRICIA [1] - 3:1
PATRICK [1] - 2:6
Paul [1] - 131:25
PAUL [3] - 2:14,
2:26, 3:21
pause [1] - 183:3
pay [1] - 173:18
penetration [6] -
105:11, 149:26,
162:7, 180:18,
188:16, 191:5
penny [1] - 192:18
people [15] - 7:4, 7:6,
13:26, 26:13, 54:28,
83:7, 92:21, 102:9,
113:10, 119:16,
128:22, 176:26,
179:5, 185:5, 194:17
people's [1] - 119:16
per [3] - 34:12,
107:29, 184:11
percent [4] - 59:19,
114:8, 116:5, 116:8
perfectly [2] - 57:19,
96:26
perhaps [38] - 6:25,
18:6, 21:3, 25:16,
25:19, 26:14, 26:16,
28:3, 29:7, 34:3, 46:9,
57:9, 58:12, 58:19,
62:8, 69:9, 70:1,
74:12, 82:15, 82:16,
87:2, 100:8, 100:21,
101:17, 105:5,
111:14, 111:19,
113:27, 114:3,
117:19, 117:23,
139:13, 139:14,
147:10, 147:11,
151:17, 177:4, 187:28
period [11] - 14:3,
73:20, 73:23, 75:6,

75:15, 87:24, 93:1,
96:1, 96:18, 104:18,
121:29
permanent [1] -
121:23
permeates [1] - 7:5
permission [1] - 3:30
perpetrator [49] -
6:8, 18:25, 19:1,
20:15, 23:4, 24:4,
24:27, 26:9, 28:9,
33:14, 53:6, 66:12,
78:26, 96:15, 97:22,
113:14, 113:15,
113:16, 113:24,
114:7, 116:6, 116:15,
116:17, 116:20,
147:8, 148:5, 148:10,
162:11, 162:15,
162:18, 162:24,
166:13, 174:16,
177:10, 177:12,
180:22, 180:26,
180:29, 181:2,
181:18, 183:15,
188:21, 188:25,
188:29, 196:18,
196:25, 198:27, 199:2
perpetrator" [1] -
155:20
perpetrator's [3] -
162:16, 180:27,
188:26
perpetrators [3] -
67:5, 115:28, 198:21
person [25] - 10:10,
19:20, 33:6, 68:4,
81:26, 88:21, 91:15,
91:22, 97:3, 101:24,
101:27, 101:28,
114:27, 115:6,
115:16, 117:6,
119:15, 122:19,
128:23, 130:23,
131:27, 147:7,
152:19, 154:28,
179:15
person's [2] - 6:14,
151:15
Personal [1] - 91:17
persons [1] - 85:26
perspective [3] -
58:16, 110:7, 110:25
pertaining [2] -
146:19, 190:11
PETER [3] - 1:12,
2:2, 2:4
phone [23] - 6:25,
7:13, 9:9, 11:25,
14:24, 28:12, 47:20,

82:21, 82:23, 82:28, 95:24, 96:1, 97:5, 97:7, 100:6, 100:23, 107:3, 115:5, 124:26, 124:27, 139:5, 139:12, 141:5

phone-call [1] - 100:23

phoned [2] - 101:6, 116:25

photocopied [1] - 3:29

phrase [1] - 12:19

physical [1] - 111:20

physically [1] - 68:5

pick [4] - 114:24, 128:1, 129:8, 152:1

picked [9] - 100:5, 127:26, 129:20, 130:3, 132:2, 150:8, 151:7, 151:19, 152:21

picking [2] - 127:12, 152:26

picture [1] - 132:1

piece [14] - 25:2, 25:4, 25:8, 25:22, 25:27, 26:4, 26:12, 26:20, 52:3, 56:23, 63:16, 64:13, 66:6, 113:18

pieces [1] - 78:28

pigeonholes [1] - 81:5

pilot [3] - 63:25, 120:11, 120:12

piloted [1] - 120:6

pink [1] - 34:3

PLACE [1] - 2:30

place [14] - 41:4, 43:4, 48:27, 51:20, 91:5, 103:5, 111:16, 112:6, 122:23, 126:13, 129:25, 136:19, 191:13, 197:17

placed [13] - 22:18, 22:24, 30:20, 41:9, 42:19, 42:23, 42:24, 49:18, 81:6, 81:21, 87:9, 97:6, 104:27

placement [1] - 68:7

places [6] - 151:12, 151:16, 189:22, 190:23, 192:9, 193:19

plain [1] - 96:26

plainly [1] - 144:6

plan [8] - 38:17, 39:9, 39:10, 43:3, 43:23, 115:24

plan" [1] - 38:14

planned [1] - 149:15

played [1] - 107:2

playing [7] - 55:22, 138:29, 153:21, 162:17, 172:19, 180:28, 188:28

PLC [1] - 3:20

plenty [1] - 119:15

plucking [1] - 189:12

plus [1] - 168:9

point [141] - 6:24, 7:23, 8:6, 9:28, 13:1, 13:5, 13:20, 14:23, 15:8, 17:7, 17:23, 19:22, 20:15, 20:17, 22:20, 22:26, 23:16, 23:19, 23:26, 23:28, 24:28, 25:12, 26:2, 26:17, 27:17, 28:20, 29:1, 29:26, 30:12, 33:10, 33:20, 33:24, 35:2, 35:23, 35:25, 35:27, 36:1, 37:4, 37:26, 38:4, 41:2, 41:27, 43:19, 43:20, 44:4, 44:10, 44:12, 46:3, 50:9, 51:19, 54:3, 54:7, 54:9, 55:28, 56:1, 56:14, 56:16, 56:17, 58:3, 58:7, 58:9, 59:16, 59:23, 60:4, 60:6, 60:10, 61:8, 61:11, 61:15, 63:4, 66:15, 68:27, 68:28, 69:11, 71:15, 72:17, 74:7, 74:9, 76:25, 77:8, 77:27, 78:6, 78:13, 78:29, 80:7, 81:7, 81:9, 81:13, 82:6, 83:22, 84:11, 84:17, 87:11, 87:13, 87:26, 88:25, 89:5, 89:7, 89:17, 90:18, 92:18, 98:25, 98:26, 98:29, 101:11, 102:3, 104:29, 105:29, 107:7, 108:13, 111:6, 113:3, 114:23, 114:29, 116:14, 116:29, 117:28, 121:20, 124:9, 124:18, 127:25, 129:6, 131:14, 134:13, 134:26, 143:23, 144:27, 144:29, 145:3, 145:17, 147:28, 148:1, 151:10, 162:22, 162:29, 163:5, 164:20, 187:14

pointless [1] - 58:2

police [3] - 64:8, 64:10, 146:29

policeman [1] - 28:23

policies [1] - 145:19

policing [2] - 70:24, 71:25

policy [6] - 117:18, 118:26, 118:27, 118:28, 119:3, 119:12

poor [1] - 70:23

pose [4] - 25:14, 30:19, 66:14, 111:1

position [13] - 47:19, 51:28, 52:17, 91:2, 91:3, 91:14, 93:18, 116:29, 117:28, 118:2, 124:8, 131:15, 133:5

positive [5] - 126:2, 143:8, 150:20, 159:8, 160:5

possibilities [2] - 159:29, 160:6

possibility [19] - 90:8, 100:8, 157:3, 157:5, 158:1, 158:2, 158:3, 158:12, 158:15, 158:18, 158:21, 158:22, 158:23, 158:28, 159:5, 159:7, 159:20, 159:27, 159:28

possible [10] - 20:14, 36:7, 54:27, 55:2, 118:12, 146:1, 161:12, 176:19, 187:13, 192:16

possibly [3] - 68:13, 68:16, 147:29

post [12] - 22:13, 22:15, 22:17, 81:1, 81:2, 81:3, 90:12, 97:6, 104:27, 119:16, 122:5

Post-It [10] - 157:14, 157:16, 158:5, 158:11, 158:13, 158:15, 158:16, 158:18, 158:25, 159:19

Post-It [10] - 157:14, 157:16, 158:5, 158:11, 158:13, 158:15, 158:16, 158:18, 158:25, 159:19

postage [1] - 83:2

potential [1] - 125:5

potentially [3] - 127:23, 134:12, 136:23

pp [2] - 17:6, 39:5

pp'd [2] - 106:11, 106:13

pp-ed [2] - 17:6, 39:5

practice [41] - 6:5, 10:1, 10:5, 20:24, 26:16, 27:13, 49:21, 49:24, 66:9, 66:11, 91:20, 92:22, 114:14, 116:9, 118:15, 118:18, 118:25, 121:19, 124:29, 126:3, 126:5, 146:16, 146:23, 147:23, 148:27, 150:11, 160:24, 165:20, 166:9, 166:14, 170:22, 176:12, 176:14, 177:8, 195:29, 197:12, 198:16, 198:20, 198:23, 198:25, 199:9

practices [4] - 117:16, 164:11, 164:12, 176:7

practitioner [1] - 85:14

prefer [1] - 178:13

preliminary [1] - 60:16

premise [1] - 57:6

preparation [5] - 123:18, 124:5, 130:19, 130:26, 135:11

prepare [1] - 169:26

prepared [4] - 89:21, 99:12, 99:19, 138:9

preparing [4] - 69:3, 101:2, 104:7, 137:11

presence [2] - 109:20, 131:13

present [8] - 36:3, 50:2, 55:11, 138:18, 165:17, 170:26, 185:3, 185:5

presented [5] - 17:10, 39:16, 124:4, 187:21, 196:23

presenting [1] - 132:1

preservation [1] - 31:15

Pressure [13] - 106:19, 126:9, 126:11, 126:20, 126:22, 127:3, 127:8, 127:13, 127:16, 127:26, 128:2, 128:7, 129:6

pressure [3] - 13:6, 30:21, 50:5

presumably [8] - 6:18, 7:13, 9:18, 19:12, 19:25, 35:13, 104:6, 105:1

presume [3] - 21:22, 81:26, 91:17

presumed [2] - 81:19, 81:23

presumption [1] - 81:26

pretty [1] - 99:11

previous [28] - 8:29, 9:1, 10:25, 16:13, 17:25, 21:19, 27:3, 27:12, 51:5, 51:8, 53:10, 53:11, 57:8, 58:14, 58:28, 64:22, 66:7, 70:11, 70:13, 70:15, 78:9, 107:29, 113:4, 124:22, 142:8, 149:19, 184:16, 185:29

previously [15] - 10:8, 10:15, 21:19, 26:22, 53:14, 54:4, 57:10, 59:10, 59:11, 77:28, 78:4, 84:1, 141:22, 147:20, 183:7

primarily [1] - 75:28

Primary [1] - 142:11

primary [1] - 11:4

print [2] - 6:4, 120:3

printed [1] - 6:1

prints [1] - 164:3

priorities [2] - 96:5, 107:7

prioritised [1] - 126:17

prioritising [1] - 129:26

priority [31] - 6:10, 6:19, 6:28, 6:29, 8:3, 8:8, 8:9, 29:5, 43:23, 44:16, 50:11, 52:18, 67:17, 67:19, 68:11, 68:22, 106:28, 107:9, 126:16, 127:4, 127:20, 128:13, 129:4, 129:10, 129:11, 129:14, 129:16, 129:21, 129:26

priority" [1] - 106:26

Private [5] - 90:2,

90:22, 91:5, 91:17, 91:19
private [10] - 18:5, 19:11, 19:17, 61:28, 65:2, 82:9, 82:29, 83:3, 89:28, 90:6
privately [1] - 19:19
probability [3] - 90:8, 186:9, 186:14
problem [1] - 186:29
problems [1] - 11:16
procedural [1] - 73:10
procedure [7] - 11:12, 62:1, 67:4, 124:3, 177:28, 184:11, 195:27
procedures [3] - 73:12, 145:20, 146:29
proceed [4] - 41:26, 154:12, 169:7, 175:29
proceeded [1] - 62:22
proceeding [1] - 199:13
process [18] - 16:22, 21:6, 22:10, 23:17, 29:27, 30:2, 31:4, 42:9, 44:23, 59:21, 72:4, 80:17, 88:20, 90:14, 102:22, 102:24, 183:4, 185:27
processes [3] - 26:14, 76:1, 107:29
processing [2] - 46:18, 137:11
produced [1] - 11:21
profession [2] - 6:14, 7:2
professional [15] - 39:3, 44:25, 66:25, 71:21, 135:1, 135:5, 138:6, 138:7, 150:12, 150:14, 150:15, 183:9, 186:27, 197:3
professionally [1] - 121:12
professionals [2] - 125:8, 152:29
professionals/ agencies [1] - 35:29
professions [2] - 7:4, 7:7
profile [2] - 134:4, 134:5
progress [3] - 70:3, 70:4, 125:26
progressed [1] - 53:25
project [2] - 120:11, 120:12
prompt [1] - 185:10
property [1] - 127:21
propose [1] - 199:13
prosecution [21] - 17:14, 23:25, 26:24, 54:8, 55:21, 56:7, 61:6, 61:21, 89:3, 89:6, 89:8, 89:11, 89:14, 98:3, 138:28, 144:2, 144:24, 145:10, 145:28, 163:10, 181:10
PROTECTED [2] - 1:3, 1:4
protection [17] - 7:18, 26:1, 34:6, 36:19, 36:20, 36:23, 38:14, 43:21, 52:20, 58:16, 77:2, 77:3, 78:21, 110:8, 124:19, 144:11, 145:19
Protection [1] - 133:22
protocol [2] - 88:8, 88:11
provide [4] - 19:6, 28:12, 86:24, 104:16
Provided [1] - 109:17
provided [13] - 31:18, 31:27, 33:12, 73:26, 86:27, 86:28, 104:24, 104:26, 162:26, 179:9, 179:14, 179:15, 181:3
proximate [1] - 69:7
prudent [1] - 41:21
psychologist [3] - 85:13, 85:29, 88:7
public [7] - 68:15, 72:6, 74:14, 75:7, 124:27, 125:8, 125:13
Public [1] - 130:29
pulled [5] - 123:25, 130:21, 133:12, 169:13, 170:18
pulse [1] - 74:20
punch [2] - 147:3, 147:5
punched [1] - 147:2
purple [1] - 38:13
purpose [14] - 13:21, 13:28, 69:3, 77:29, 100:25, 102:1, 122:18, 144:5, 145:12, 148:8, 148:15, 171:6, 173:12, 173:22
purposes [2] - 6:1, 113:14
pursue [2] - 28:27, 44:4
pursuing [2] - 55:28, 133:4
put [46] - 10:18, 29:13, 29:14, 34:25, 39:20, 40:24, 41:5, 46:23, 47:3, 54:28, 55:23, 59:6, 60:19, 68:12, 72:21, 75:5, 80:24, 96:22, 116:1, 120:1, 123:20, 136:15, 136:23, 137:1, 139:1, 139:22, 140:19, 141:22, 148:24, 152:17, 153:4, 153:5, 155:5, 155:21, 155:24, 158:14, 158:18, 158:25, 164:18, 180:12, 187:2, 187:8, 189:4, 190:4, 194:17, 198:1
puts [1] - 138:7
putting [5] - 13:19, 14:23, 53:4, 114:11, 155:25
puzzled [1] - 80:8

Q

qualifications [2] - 121:11, 121:13
qualified [1] - 121:12
QUAY [1] - 2:16
query [9] - 10:15, 10:29, 11:1, 24:25, 26:7, 59:11, 76:12, 78:4, 141:22
question-mark [3] - 61:23, 141:23, 169:9
QUESTIONED [2] - 4:9, 111:11
questioning [1] - 100:25
questions [4] - 84:27, 107:15, 115:23, 160:11
QUINN [1] - 3:22
quite [1] - 129:1

R

radio [2] - 132:19, 132:20
raised [2] - 24:26, 114:17
random [3] - 114:23, 127:26, 160:1
randomly [1] - 130:3
rang [1] - 75:26
rank [1] - 91:22
rather [2] - 10:10, 26:7
RE [3] - 4:8, 107:19, 111:9
re [5] - 26:18, 26:19, 27:16, 53:19, 84:1
RE-EXAMINATION [1] - 111:9
RE-EXAMINED [2] - 4:8, 107:19
re-notified [2] - 53:19, 84:1
re-notifying [1] - 27:16
re-referred [2] - 26:18, 26:19
read [53] - 18:6, 27:29, 55:5, 59:6, 59:8, 61:3, 61:22, 64:15, 79:29, 80:6, 80:28, 82:2, 82:3, 91:26, 95:21, 108:9, 108:13, 108:28, 109:23, 119:29, 132:7, 132:17, 141:12, 144:25, 146:2, 146:3, 146:6, 148:26, 148:27, 148:29, 150:5, 150:7, 150:8, 150:10, 157:16, 161:22, 161:26, 165:7, 167:23, 168:18, 173:1, 176:3, 178:3, 178:13, 178:15, 180:14, 181:25, 186:10, 189:4, 189:9, 189:11, 190:3, 190:6
reading [13] - 109:9, 142:22, 144:7, 149:1, 168:19, 172:2, 172:26, 184:4, 187:1, 187:23, 188:6, 189:2, 189:7
reads [2] - 10:15, 51:2
realisation [1] - 63:22
realise [2] - 53:27, 174:3
realised [1] - 62:29
really [8] - 16:18, 27:23, 54:15, 72:4, 92:2, 92:29, 93:29, 146:9
reason [27] - 20:11, 27:2, 40:23, 41:27, 42:2, 42:12, 48:26, 49:13, 49:15, 49:22, 51:6, 51:15, 54:3, 54:8, 81:21, 82:5, 107:6, 109:16, 112:9, 112:11, 114:2, 114:17, 143:13, 146:1, 155:14, 159:10, 190:15
reasonable [4] - 97:2, 100:24, 184:27, 184:29
reasonably [1] - 23:9
reasoning [1] - 65:19
receipt [2] - 104:15, 104:18
receive [4] - 16:20, 39:4, 80:29, 147:24
received [32] - 10:6, 13:23, 16:10, 16:14, 18:16, 22:1, 31:7, 40:16, 40:27, 48:5, 63:9, 67:2, 80:18, 80:28, 94:12, 99:14, 108:4, 130:18, 130:26, 138:4, 145:1, 145:3, 145:9, 147:23, 148:23, 166:10, 170:23, 173:25, 181:14, 182:16, 196:1, 198:28
receives [2] - 80:14, 160:27
receiving [1] - 170:3
recent [4] - 18:16, 22:1, 36:6, 94:12
recently [1] - 79:10
recipient [3] - 90:10, 98:19, 98:20
recognise [2] - 109:26, 154:27
recognised [2] - 21:18, 65:10
recognition [1] - 12:27
recollection [6] - 44:20, 61:19, 62:19, 110:1, 159:7, 159:8
recommendation [4] - 89:7, 89:10, 89:15
recommended [3] - 23:25, 89:2, 89:13
recommending [4] - 24:12, 25:24, 25:26, 98:3
recontact [1] - 102:9
record [82] - 6:3, 8:29, 9:4, 9:20, 13:22, 18:7, 24:2, 24:21,

28:1, 33:2, 33:3, 33:9,
33:11, 35:28, 38:17,
39:23, 40:18, 41:13,
41:27, 46:28, 52:18,
59:2, 59:22, 62:25,
63:13, 64:3, 76:5,
76:7, 77:3, 77:24,
77:25, 78:1, 80:4,
108:25, 109:6,
123:11, 123:14,
127:18, 134:23,
135:3, 136:15,
136:21, 136:24,
136:26, 137:29,
138:2, 140:28,
148:25, 149:2,
150:29, 151:23,
152:28, 155:29,
159:19, 166:18,
167:15, 167:19,
173:7, 175:6, 176:10,
176:15, 176:16,
177:17, 177:21,
177:25, 178:21,
180:10, 184:22,
186:22, 187:24,
189:21, 194:22,
194:29, 195:2, 195:6,
195:10, 195:17,
195:20, 195:24,
196:3, 196:24, 197:24
record/details [1] -
35:23
recorded [19] - 8:11,
13:7, 17:13, 69:23,
106:18, 106:20,
110:12, 127:18,
128:6, 140:27,
140:29, 153:29,
169:11, 171:19,
173:14, 173:28,
176:8, 176:20, 197:27
recording [2] -
126:14, 173:29
records [39] - 32:29,
37:22, 40:20, 45:17,
46:28, 47:12, 48:7,
48:9, 109:23, 166:14,
172:14, 175:21,
175:23, 176:5,
176:24, 176:25,
177:13, 178:17,
185:9, 185:21,
185:22, 186:17,
187:21, 195:27,
196:5, 196:7, 197:11,
197:13, 197:15,
197:19, 198:6,
198:17, 198:19,
198:20, 198:25,
199:1, 199:4, 199:8

Records [1] - 36:1
recur [1] - 56:10
redacted [8] - 149:8,
149:24, 149:27,
168:3, 171:14,
174:27, 178:9, 179:10
redacted [2] - 178:5,
179:16
redactions [1] -
178:4
REDMOND [1] - 2:24
refer [14] - 17:21,
17:23, 19:23, 20:2,
20:8, 105:28, 139:27,
143:4, 144:21,
144:27, 146:18,
183:17, 190:6, 194:16
reference [22] -
32:10, 32:14, 35:12,
35:18, 54:1, 55:1,
79:28, 137:10,
152:19, 158:12,
175:7, 183:22, 187:3,
187:4, 187:17,
187:20, 192:8,
193:19, 194:1, 194:9,
194:13, 194:17
referenced [2] -
131:6, 150:10
references [3] -
133:6, 159:22, 170:24
referral [39] - 5:27,
6:12, 6:13, 6:27, 7:2,
8:5, 9:24, 10:1, 10:6,
11:13, 11:15, 13:27,
14:4, 14:9, 18:16,
18:18, 22:1, 22:5,
22:7, 22:19, 27:2,
27:15, 27:20, 27:29,
30:7, 40:7, 41:12,
41:25, 46:12, 51:7,
54:9, 67:1, 67:22,
80:3, 83:13, 94:12,
94:15, 98:14, 170:3
Referral [2] - 109:16,
142:17
referrals [38] - 6:1,
8:9, 13:17, 13:22,
13:23, 13:24, 15:29,
16:1, 16:5, 21:2, 21:6,
21:11, 22:14, 33:4,
39:3, 39:23, 39:25,
39:26, 40:26, 44:26,
50:3, 60:22, 67:1,
68:11, 109:20, 110:3,
126:22, 171:28,
187:22, 187:25,
197:14, 197:16,
197:22, 198:1, 198:4,
198:7, 198:9

referred [15] - 17:20,
26:18, 26:19, 27:21,
44:25, 47:15, 55:12,
74:17, 76:19, 125:13,
138:19, 144:22,
181:16, 183:13,
185:21
referrer [1] - 109:13
referring [17] -
21:22, 22:5, 22:7,
46:7, 65:12, 78:10,
105:6, 111:14, 122:8,
131:2, 140:23, 146:1,
146:18, 167:26,
168:20, 183:28, 190:7
refers [8] - 23:7,
35:21, 152:10,
152:12, 152:13,
174:10, 186:26,
191:14
reflect [5] - 176:22,
177:4, 183:4, 195:14,
195:21
reflecting [2] -
167:18, 167:21
regard [17] - 22:17,
39:19, 125:25,
125:28, 126:25,
126:27, 127:12,
131:11, 146:16,
152:21, 152:23,
164:2, 171:26,
174:16, 184:24,
185:27, 198:29
regarding [4] - 79:6,
79:10, 169:7, 175:29
regards [2] - 51:28,
165:14
register [2] - 19:26,
173:13
REGISTRAR [1] - 2:4
regular [2] - 43:13,
115:22
regularly [1] - 7:4
reiterate [1] - 132:14
relate [3] - 110:15,
110:20, 124:21
related [2] - 93:19,
158:9
relates [6] - 13:5,
47:16, 158:12,
158:16, 166:16,
196:22
relating [10] - 6:23,
9:26, 14:22, 23:12,
31:16, 45:19, 108:25,
117:3, 130:15, 186:22
relation [142] - 6:6,
6:9, 8:24, 9:1, 10:6,
11:13, 11:15, 11:22,

11:24, 13:27, 17:24,
17:28, 18:10, 19:13,
20:12, 24:18, 25:5,
25:9, 25:26, 26:4,
26:29, 27:11, 27:14,
27:28, 30:17, 36:18,
36:19, 36:22, 44:23,
45:20, 49:17, 51:26,
52:19, 53:11, 58:28,
61:15, 64:12, 65:22,
67:7, 69:13, 69:25,
70:12, 70:15, 73:4,
75:29, 76:2, 76:22,
76:25, 77:9, 77:14,
77:24, 77:25, 77:26,
78:11, 78:28, 79:26,
83:19, 83:21, 84:6,
86:20, 90:17, 91:12,
96:2, 97:28, 98:6,
99:9, 101:25, 102:14,
103:4, 103:6, 103:9,
106:22, 111:4,
111:18, 112:2,
112:13, 112:18,
115:15, 115:27,
118:19, 122:11,
122:18, 122:26,
126:6, 126:8, 131:27,
131:28, 132:4, 132:5,
133:21, 136:18,
137:2, 139:10,
140:26, 141:26,
142:9, 147:18, 153:4,
153:5, 154:3, 154:17,
155:22, 158:20,
159:1, 166:8, 166:17,
166:23, 167:9,
167:11, 169:17,
169:22, 170:4, 170:6,
170:19, 171:1,
171:27, 172:10,
174:8, 176:7, 176:15,
176:17, 179:8,
179:13, 181:25,
182:8, 182:13,
182:21, 184:23,
185:3, 185:8, 185:9,
186:17, 187:15,
191:8, 194:29,
195:10, 195:28,
196:8, 198:3, 198:17
relationship [2] -
26:3, 153:13
relatives [1] - 93:13
released [1] - 86:8
relevance [2] - 74:1,
75:11
relevant [16] - 7:16,
31:18, 37:22, 57:21,
74:1, 74:4, 97:11,

97:12, 102:8, 107:2,
160:28, 170:28,
172:1, 173:28,
194:20, 197:13
reliable [3] - 150:19,
151:7, 151:21
remain [1] - 179:22
remainder [3] -
93:24, 152:13, 153:12
remained [4] - 47:9,
48:17, 121:22, 121:24
remaining [1] - 196:3
remember [13] -
10:19, 10:28, 24:17,
24:22, 40:11, 40:13,
44:11, 59:3, 71:14,
72:2, 89:22, 172:26,
175:13
remembered [2] -
70:17, 154:7
remind [1] - 44:27
remit [1] - 68:9
remotely [1] - 100:18
removed [2] - 135:8,
148:20
reopening [2] - 25:6,
66:22
repeat [5] - 35:17,
36:26, 127:28,
151:18, 152:24
repeated [1] - 48:7
repeating [1] -
189:18
replied [1] - 156:12
reply [4] - 64:1, 64:4,
64:9, 82:11
Report [4] - 139:15,
141:2, 142:11, 143:24
report [109] - 5:17,
5:22, 10:22, 11:4,
14:18, 16:7, 16:8,
16:21, 16:28, 22:10,
22:11, 29:20, 29:22,
29:29, 30:7, 30:8,
30:9, 39:20, 39:24,
40:15, 40:23, 41:11,
42:6, 42:9, 42:13,
43:27, 44:19, 44:28,
46:2, 46:8, 46:17,
47:25, 48:26, 49:8,
52:29, 70:14, 73:4,
74:16, 74:19, 76:5,
76:19, 80:23, 80:27,
80:29, 103:14, 106:4,
109:28, 135:2, 135:5,
135:7, 135:11,
135:20, 135:21,
135:27, 137:7,
137:17, 137:27,
137:29, 138:4, 138:6,

138:13, 141:11,
141:12, 145:9,
145:20, 148:26,
148:27, 148:29,
150:13, 150:15,
152:5, 152:7, 152:8,
152:10, 152:16,
152:18, 153:1, 153:2,
163:16, 170:23,
172:10, 173:9,
177:22, 180:3, 180:9,
181:28, 182:4, 182:7,
182:8, 186:21,
186:24, 186:27,
189:10, 189:20,
190:11, 190:14,
190:21, 192:5, 192:9,
192:20, 193:4,
193:18, 193:27,
194:2, 194:9, 194:10,
196:1
Report^[1] - 140:1
reported^[23] - 11:25,
17:14, 41:29, 47:20,
52:12, 52:13, 52:24,
53:2, 53:17, 53:18,
53:23, 55:20, 56:4,
56:21, 56:29, 104:22,
111:27, 138:27,
144:1, 144:11,
161:28, 180:5
reporter^[3] - 179:22,
196:28
reporting^[4] - 34:5,
144:5, 181:15, 182:17
reports^[16] - 19:13,
37:17, 37:20, 37:22,
38:8, 41:23, 124:19,
124:21, 124:22,
124:24, 162:9,
162:26, 172:1,
180:20, 181:4
represent^[1] - 85:4
reproduced^[1] -
3:29
reproduces^[1] -
140:16
request^[4] - 85:17,
85:25, 86:26, 100:12
requested^[4] -
86:22, 86:23, 87:11,
159:21
requesting^[1] -
54:19
require^[1] - 58:17
required^[6] - 54:9,
67:7, 129:11, 129:12,
144:18, 194:19
resided^[4] - 22:12,
87:16, 87:19, 87:20
resides^[2] - 162:27,
181:4
residing^[3] - 68:3,
72:16, 104:10
resigning^[1] -
131:10
RESOLUTIONS^[1] -
1:5
resources^[2] - 6:17,
68:27
respect^[27] - 9:24,
21:17, 24:9, 33:6,
69:23, 71:24, 75:10,
78:19, 78:21, 78:26,
97:10, 98:19, 100:19,
123:14, 124:22,
124:24, 131:7, 134:6,
166:15, 169:27,
170:2, 175:6, 177:14,
185:29, 187:12,
194:26, 195:2
respectively^[1] -
85:12
respond^[7] - 20:16,
57:5, 93:11, 93:26,
97:14, 100:11, 101:25
responded^[4] -
54:16, 96:27, 99:24,
196:29
respondent^[1] -
3:30
responding^[2] -
84:3, 99:22
response^[30] -
25:10, 25:13, 26:27,
30:18, 51:27, 54:20,
65:20, 65:22, 66:13,
67:6, 82:14, 82:19,
83:20, 84:15, 84:19,
86:17, 87:29, 92:29,
93:13, 98:4, 99:5,
100:23, 110:24,
110:29, 111:5, 112:6,
113:15, 115:4,
115:10, 129:12
responses^[1] -
17:29
responsibility^[5] -
24:8, 97:22, 159:12,
161:1, 198:3
responsible^[2] -
29:1, 96:4
rest^[1] - 141:17
RESUMED^[2] - 5:1,
121:1
resurfacing^[1] -
112:7
Retrospective^[1] -
161:4
retrospective^[30] -
8:5, 8:8, 14:13, 67:1,
68:10, 79:27, 81:16,
115:26, 135:14,
136:11, 144:12,
144:17, 145:2,
145:14, 145:24,
145:26, 146:17,
147:22, 147:24,
148:19, 149:4,
150:18, 151:20,
166:11, 167:20,
173:24, 173:27,
177:13, 183:9, 191:12
retrospectively^[1] -
67:2
return^[2] - 40:7,
94:7
returned^[9] - 40:8,
48:3, 48:6, 49:6,
91:25, 91:29, 92:6,
93:8, 172:9
returning^[1] -
100:27
reveal^[2] - 57:17,
57:19
revert^[2] - 126:1,
130:8
review^[20] - 14:8,
29:25, 32:1, 38:1,
38:17, 44:12, 50:6,
59:21, 124:5, 130:17,
130:25, 131:21,
135:10, 139:14,
143:10, 170:26,
186:13, 186:14,
194:21
reviewed^[11] -
13:21, 15:22, 17:16,
41:20, 51:4, 80:3,
82:7, 108:3, 108:15,
172:27, 175:17
reviewing^[11] -
43:16, 138:1, 171:24,
173:1, 173:12,
173:22, 173:23,
173:26, 175:7,
187:23, 187:28
reviews^[2] - 37:20,
38:18
Rhona^[7] - 23:22,
24:12, 24:24, 79:3,
172:13, 173:29, 184:7
Rian^[24] - 18:16,
22:1, 45:6, 48:3, 49:6,
94:12, 108:4, 135:12,
135:20, 152:5, 152:7,
153:8, 161:27, 162:4,
163:15, 180:15,
182:5, 188:15,
189:10, 189:21,
192:5, 192:9, 194:2,
194:10
right-hand^[2] -
85:23, 140:3
ring^[3] - 70:7, 71:29,
130:20
rings^[1] - 75:25
rise^[1] - 90:7
risk^[22] - 6:19, 6:20,
8:7, 25:13, 30:19,
43:22, 57:23, 66:13,
66:23, 67:18, 67:25,
68:1, 68:10, 68:19,
68:22, 68:23, 103:1,
111:1, 113:16, 129:9,
153:29, 199:4
road^[5] - 46:21,
46:22, 92:13, 93:3,
132:24
role^[20] - 58:12,
75:21, 75:23, 78:21,
102:24, 103:9,
112:13, 121:29,
124:15, 124:29,
125:1, 126:19, 127:6,
134:13, 141:27,
142:6, 143:6, 148:27,
198:29, 199:1
roles^[1] - 99:5
roll^[1] - 120:13
roll-out^[1] - 120:13
romance^[1] - 72:15
room^[16] - 9:14,
42:25, 42:26, 42:28,
43:1, 43:4, 125:2,
125:11, 125:16,
125:21, 128:5,
129:11, 129:13,
129:15, 129:18,
172:20
Rooney^[4] - 72:19,
73:17, 74:17, 74:21
rose^[1] - 5:10
rota^[1] - 198:14
rotational^[1] - 122:3
routine^[1] - 197:12
routinely^[3] -
132:23, 146:20,
198:26
RTE^[1] - 2:32
rule^[1] - 132:27
run^[2] - 83:2, 83:10
run-of-the-mill^[2] -
83:2, 83:10
RYAN^[2] - 3:14, 3:14

S

SAINT^[1] - 2:12

sake^[1] - 14:16
satisfied^[2] - 27:19,
51:18
save^[3] - 6:4, 88:19,
97:10
saved^[1] - 5:29
savvy^[1] - 133:3
saw^[8] - 41:18,
44:21, 70:7, 91:29,
109:28, 114:4,
155:12, 155:15
SC^[12] - 2:6, 2:6,
2:14, 2:14, 2:18, 2:18,
2:22, 2:26, 2:32, 3:3,
3:5, 3:13
SCANLON^[1] - 2:24
scanned^[2] -
119:29, 120:8
scanning^[1] -
152:16
school^[4] - 37:20,
55:20, 138:27, 144:1
Science^[1] - 121:15
scope^[2] - 144:14,
145:20
screen^[4] - 5:12,
133:18, 139:25,
188:10
scroll^[2] - 5:18,
103:16
scrolled^[1] - 151:17
sea^[1] - 74:8
Seamus^[1] - 164:4
SEAN^[3] - 2:15,
2:23, 2:32
SEANAD^[1] - 1:6
search^[1] - 119:29
searching^[1] -
173:19
second^[17] - 54:24,
58:4, 59:17, 65:13,
69:13, 105:14, 109:8,
118:8, 143:25,
152:14, 159:20,
169:29, 178:29,
181:26, 185:4,
193:22, 193:23
second-last^[1] -
143:25
secondary^[1] -
58:18
secondly^[2] - 52:10,
113:15
secret^[1] - 178:12
section^[36] - 8:14,
8:28, 35:10, 37:2,
37:11, 37:13, 37:17,
37:28, 38:23, 39:21,
39:23, 39:24, 39:25,
39:26, 41:10, 69:17,

76:11, 79:29, 80:14, 95:27, 106:16, 134:17, 134:21, 135:15, 136:20, 138:13, 141:1, 141:13, 141:19, 142:10, 163:24, 177:22, 178:21, 195:24, 196:8, 196:27

Section [2] - 21:17, 197:20

sections [2] - 155:9, 189:9

secured [2] - 40:7, 121:23

see [108] - 6:26, 10:2, 12:14, 16:12, 25:27, 26:5, 26:28, 28:22, 29:7, 31:10, 31:25, 32:7, 32:8, 32:10, 34:19, 35:19, 40:1, 41:13, 44:24, 48:17, 51:20, 54:21, 55:1, 57:23, 60:12, 61:1, 62:12, 62:26, 63:29, 66:8, 66:16, 68:23, 68:26, 69:20, 71:6, 71:9, 71:11, 78:2, 80:2, 80:22, 81:24, 81:28, 81:29, 82:8, 83:5, 83:8, 84:16, 84:17, 84:20, 85:22, 85:24, 86:14, 86:18, 91:11, 93:28, 94:10, 94:21, 100:26, 103:26, 104:3, 104:24, 104:28, 105:2, 108:26, 108:27, 109:10, 113:13, 116:6, 133:27, 134:21, 134:23, 135:3, 136:27, 136:29, 137:26, 138:3, 138:15, 141:24, 144:3, 144:4, 149:9, 149:15, 150:1, 153:12, 153:15, 154:4, 154:25, 155:2, 155:4, 157:3, 157:10, 172:13, 173:11, 174:7, 177:22, 179:9, 181:18, 183:20, 183:22, 184:6, 184:14, 184:20, 185:4, 185:6, 187:16, 187:17, 187:18

seeing [8] - 24:11, 24:17, 40:11, 41:7, 66:18, 102:10, 134:1, 139:25

seek [11] - 55:22, 68:28, 105:27, 139:1, 153:21, 162:17, 180:28, 187:3, 188:28, 189:26, 191:14

seeking [6] - 90:28, 96:22, 97:15, 100:18, 100:23, 102:5

seeks [1] - 85:17

seem [8] - 28:24, 34:23, 62:15, 129:24, 142:14, 159:11, 186:16, 196:17

selection [1] - 160:1

self [2] - 55:12, 138:19

self-referred [2] - 55:12, 138:19

send [17] - 17:5, 41:11, 41:16, 46:29, 47:1, 49:11, 49:23, 103:3, 117:9, 118:9, 118:11, 118:21, 118:23, 135:2, 139:8, 153:1, 154:15

sender [2] - 93:18, 102:23

sending [6] - 99:12, 102:29, 104:8, 147:13, 164:28, 166:7

sends [1] - 97:4

senior [4] - 85:6, 85:12, 85:13, 131:21

sense [5] - 14:21, 129:7, 129:24, 147:1, 147:9

sensitive [1] - 83:6

sent [32] - 14:15, 17:6, 38:26, 45:9, 52:13, 73:3, 74:22, 82:2, 87:29, 90:9, 94:24, 95:23, 99:3, 102:18, 102:20, 106:9, 106:12, 117:21, 135:20, 138:6, 143:11, 145:27, 147:6, 154:10, 156:7, 157:11, 163:10, 164:29, 165:21, 181:9, 182:4, 192:20

sentence [3] - 23:8, 161:14

sentences [3] - 168:19, 176:3, 176:4

separate [8] - 64:13, 77:26, 87:22, 87:28, 97:5, 158:16, 175:16, 196:5

separately [2] - 108:20, 169:24

September [4] - 92:7, 92:11, 93:8, 118:28

sequencing [2] - 89:25, 106:8

sergeant [1] - 73:25

Sergeant [31] - 5:15, 8:25, 20:2, 25:17, 32:15, 65:9, 65:15, 65:28, 66:18, 68:29, 69:6, 70:23, 71:12, 71:24, 72:20, 78:25, 110:9, 110:28, 130:3, 130:16, 131:2, 131:22, 132:3, 132:6, 132:11, 133:6, 133:12, 158:21, 160:10, 172:11, 172:26

serious [23] - 6:20, 8:7, 43:21, 47:27, 67:12, 67:18, 67:21, 67:24, 67:27, 67:29, 68:6, 68:17, 68:18, 68:19, 68:24, 72:2, 84:7, 111:14, 111:15, 111:20, 111:22, 199:4

seriously [1] - 68:5

serve [1] - 75:7

served [1] - 73:19

service [47] - 6:29, 10:3, 18:17, 22:2, 24:27, 24:29, 25:1, 43:19, 47:17, 52:13, 52:14, 52:28, 53:15, 54:13, 55:12, 57:21, 58:22, 60:27, 62:20, 62:26, 65:24, 65:29, 66:17, 66:25, 77:21, 85:29, 86:2, 86:3, 87:13, 87:23, 87:25, 94:13, 96:5, 98:6, 98:16, 110:8, 112:8, 112:9, 112:11, 112:12, 113:11, 114:16, 120:4, 138:20, 161:28

Service [13] - 3:30, 18:15, 18:26, 21:29, 23:5, 24:5, 25:11, 26:6, 26:9, 65:17, 94:11, 108:4, 109:17

Services [4] - 1:25, 3:29, 94:11, 133:22

SERVICES [1] - 1:30

services [2] - 18:15, 21:29

servicing [6] - 6:26, 7:17, 7:20, 7:21, 8:2, 49:27

sessions [2] - 18:19, 94:16

set [6] - 6:22, 81:16, 150:17, 154:6, 179:5, 180:9

sets [2] - 94:5, 189:5

seven [8] - 55:14, 65:23, 138:21, 145:26, 162:9, 180:20, 182:28, 188:20

sex [12] - 55:19, 56:9, 67:12, 67:13, 68:13, 68:14, 128:21, 138:27, 143:29, 147:5, 161:7, 178:18

Sexual [1] - 87:21

sexual [40] - 11:7, 11:26, 18:11, 47:27, 56:5, 105:10, 109:17, 142:11, 144:13, 144:17, 145:2, 145:14, 146:17, 147:22, 147:25, 149:16, 149:24, 161:20, 162:6, 166:12, 169:29, 170:4, 170:7, 170:12, 171:10, 172:6, 175:13, 177:11, 180:17, 181:15, 182:17, 184:12, 188:15, 189:25, 191:3, 196:18, 196:26, 198:22, 198:27, 199:3

sexually [3] - 18:20, 57:17, 94:17

SGT [1] - 2:14

shared [1] - 13:25

sharing [2] - 119:18, 146:24

SHATTER [2] - 2:29, 2:29

Sheet [1] - 166:2

sheet [7] - 34:27, 37:28, 38:6, 133:21, 165:27, 166:3, 166:15

sheets [3] - 23:21, 108:10, 171:29

SHIP [1] - 2:21

shortly [1] - 164:29

show [1] - 12:17

shows [1] - 13:12

sibling [2] - 196:1, 196:3

sick [1] - 41:24

side [10] - 35:8, 38:6, 38:14, 66:19, 111:3, 140:3, 177:1, 189:26, 192:26

side-by-side [1] - 189:26

sight [4] - 80:6, 100:1, 175:5, 197:24

sign [10] - 15:7, 24:20, 24:25, 39:5, 59:3, 156:1, 164:4, 168:16, 168:27, 197:3

sign-off [4] - 24:20, 24:25, 156:1, 164:4

signatory [1] - 103:20

signature [3] - 13:13, 168:21

signed [13] - 8:27, 10:21, 21:10, 36:4, 41:8, 58:26, 77:12, 85:11, 106:9, 123:13, 153:2, 163:29, 197:27

significance [7] - 22:29, 71:15, 72:2, 130:15, 131:8, 132:15, 134:9

significant [4] - 37:6, 71:17, 137:16, 176:21

signing [2] - 13:1, 59:5

silent [1] - 145:22

similar [4] - 23:29, 108:13, 151:27, 191:28

simple [3] - 51:29, 117:10, 138:7

simply [8] - 20:2, 33:11, 59:5, 93:23, 118:11, 146:24, 147:21, 196:4

sincerely [1] - 19:10

single [3] - 113:22, 116:12, 116:19

sister [3] - 179:2

sit [2] - 117:12, 132:22

sites [1] - 29:2

sitting [2] - 124:26, 172:20

situ [1] - 64:27

situation [6] - 25:28, 26:25, 101:9, 101:16, 128:19, 128:20

six [14] - 26:10, 55:13, 65:23, 65:25, 66:9, 66:27, 93:1, 132:22, 138:21, 145:25, 162:9, 180:20, 182:28,

188:20
slightly [2] - 103:27, 187:16
small [1] - 186:20
so-and-so [1] - 117:10
so-called [1] - 102:17
Social [22] - 118:12, 118:19, 118:20, 120:4, 121:15, 121:16, 121:24, 121:26, 122:15, 124:20, 141:19, 141:27, 142:4, 144:12, 144:14, 148:1, 148:2, 166:9, 177:8, 184:10, 196:9, 196:23
social [118] - 5:24, 5:26, 6:2, 6:16, 8:15, 8:19, 12:29, 13:7, 18:23, 23:2, 23:16, 23:20, 27:3, 30:22, 33:19, 34:9, 39:13, 43:9, 44:2, 46:22, 47:28, 48:14, 51:8, 57:22, 58:1, 58:14, 64:13, 66:7, 69:10, 76:12, 76:16, 78:29, 85:13, 87:10, 94:18, 99:8, 101:24, 103:9, 103:14, 108:19, 113:1, 113:4, 113:5, 113:7, 117:11, 119:10, 121:12, 121:13, 121:19, 122:1, 122:3, 122:5, 124:9, 124:15, 124:17, 124:18, 124:24, 125:1, 125:3, 125:4, 125:16, 125:24, 125:29, 126:3, 126:12, 127:9, 127:11, 127:15, 127:19, 128:3, 128:8, 132:28, 133:1, 133:4, 134:17, 137:14, 141:27, 143:6, 143:20, 143:22, 145:1, 148:28, 149:9, 149:11, 149:12, 155:25, 156:3, 157:22, 158:19, 159:3, 159:14, 159:18, 159:22, 159:23, 160:1, 161:2, 163:21, 163:26, 169:20, 169:28, 170:3, 170:7, 170:10, 170:11, 170:15, 175:9, 175:12, 175:21, 182:20, 184:19, 185:16, 187:20, 187:27, 197:18, 198:8, 198:12, 198:15
SOLE [2] - 1:12, 2:2
solely [1] - 17:8
SOLICITOR [5] - 2:7, 3:1, 3:9, 3:20, 3:25
SOLICITOR'S [1] - 2:20
solicitors [1] - 130:18
SOLICITORS [5] - 2:10, 2:29, 3:3, 3:16, 3:23
someone [8] - 49:27, 91:3, 96:8, 97:4, 110:19, 116:6, 117:9, 118:21
sometime [1] - 81:4
sometimes [7] - 14:2, 14:5, 33:8, 41:23, 97:16, 138:10, 176:19
somewhere [3] - 47:29, 77:17, 88:2
soon [1] - 41:25
Sorry [1] - 74:6
sorry [35] - 15:1, 15:19, 35:17, 45:13, 45:23, 45:25, 48:24, 50:26, 50:28, 63:16, 72:28, 81:10, 86:15, 100:7, 103:16, 112:21, 117:22, 121:28, 123:4, 126:24, 127:28, 140:6, 140:13, 144:19, 146:25, 146:26, 146:28, 152:24, 165:25, 168:18, 174:10, 177:6, 188:1, 192:11, 193:23
sort [5] - 33:26, 62:12, 95:7, 103:27, 127:3
sought [4] - 100:13, 100:20, 100:21, 101:28
source [4] - 175:4, 175:8, 175:9, 183:8
space [2] - 12:19, 179:29
Spain [1] - 92:3
speaking [3] - 89:9, 131:1, 147:7
specific [13] - 7:3, 11:16, 59:4, 75:28, 76:22, 83:29, 84:2, 153:27, 154:3, 162:25, 164:16, 170:29, 181:3
specifically [11] - 10:28, 71:15, 80:5, 82:4, 103:6, 112:11, 155:3, 158:20, 172:28, 173:21, 183:17
specifics [1] - 131:4
specify [2] - 98:17, 196:17
speculate [4] - 9:2, 22:16, 57:5, 104:21
speculating [6] - 10:8, 52:22, 63:10, 81:13, 104:29, 176:29
speculation [1] - 101:18
spell [1] - 109:7
spelt [4] - 32:21, 109:4, 109:5, 109:6
spoken [2] - 116:25, 147:12
staff [5] - 9:14, 18:1, 29:18, 41:24, 160:25
stage [19] - 20:20, 27:9, 33:23, 44:9, 51:12, 69:17, 123:7, 123:17, 132:10, 143:5, 149:3, 149:10, 157:23, 158:8, 164:7, 172:3, 183:3, 187:9, 187:19
stamp [5] - 16:12, 16:15, 16:19, 83:3, 103:28
stand [2] - 51:14, 138:9
standard [20] - 10:1, 32:2, 33:29, 34:5, 34:24, 38:3, 38:11, 38:21, 39:2, 39:7, 41:16, 44:21, 46:29, 49:21, 49:24, 61:29, 67:4, 114:13, 139:8, 161:14
standards [5] - 71:25, 113:27, 114:3, 116:3, 116:4
standing [2] - 62:21, 66:15
stands [1] - 71:17
stapled [1] - 136:21
starred [1] - 6:5
start [3] - 85:8, 99:29, 160:13
started [2] - 74:10, 121:19
starting [2] - 156:16, 169:26
starts [4] - 77:4, 109:1, 121:5, 168:22
state [6] - 11:20, 51:22, 63:1, 80:9, 151:10, 151:25
State [1] - 90:21
STATE [1] - 2:20
Statement [1] - 132:8
statement [40] - 21:16, 23:14, 23:15, 26:28, 30:14, 50:25, 50:26, 51:13, 61:16, 62:5, 85:18, 86:8, 86:21, 86:25, 86:27, 87:3, 87:7, 87:14, 87:16, 88:1, 88:11, 88:19, 92:17, 93:5, 94:5, 96:25, 107:23, 107:26, 108:9, 108:14, 121:4, 124:1, 124:5, 131:6, 154:3, 154:9, 163:9, 175:10, 175:11, 181:8
states [5] - 18:18, 41:10, 94:15, 98:15, 157:18
Station [2] - 154:22, 155:3
station [11] - 7:10, 7:12, 19:24, 20:19, 70:20, 73:3, 73:27, 91:16, 160:21, 160:28, 164:2
stationed [3] - 55:16, 70:19, 138:23
status [2] - 106:20, 127:16
stay [2] - 145:22, 187:6
stayed [1] - 123:21
staying [1] - 172:17
steering [1] - 73:27
stems [1] - 62:27
stenographic [1] - 1:27
Stenography [2] - 3:29, 3:30
stenography [1] - 1:25
STENOGRAPHY [1] - 1:30
step [3] - 33:16, 69:20, 87:17
steps [5] - 23:26, 33:20, 98:5, 141:25, 156:26
stick [1] - 192:12
still [28] - 6:26, 7:17, 8:2, 9:27, 26:18, 43:19, 43:20, 52:2, 56:22, 58:12, 63:4, 64:12, 64:20, 64:26, 64:27, 87:23, 92:13, 99:7, 101:7, 110:22, 112:3, 112:10, 113:3, 117:2, 118:5, 142:28, 148:7, 154:23
stood [1] - 31:23
stop [4] - 61:8, 100:7, 128:19, 182:24
stored [2] - 42:16, 62:11
stories [1] - 133:29
story [5] - 46:24, 66:19, 70:28, 116:22, 131:8
straight [1] - 81:8
strange [3] - 66:5, 82:10, 82:13
strategy [5] - 12:5, 27:13, 38:18, 103:5, 115:22
Street [1] - 7:10
STREET [5] - 2:11, 2:21, 2:25, 3:7, 3:23
street [1] - 7:12
stress [1] - 68:19
strike [1] - 82:10
subheading [1] - 141:1
subject [3] - 93:20, 95:12, 95:14
subjected [3] - 111:17, 128:14, 128:16
submitted [1] - 189:10
subsequent [3] - 25:18, 135:9, 156:5
subsequently [2] - 140:17, 140:20
substance [2] - 69:21, 81:16
substances [1] - 111:22
substantiate [1] - 73:12
succeeded [1] - 38:25
succeeding [1] - 145:23
successful [1] - 51:17
such-and-such [2] - 64:6, 91:16

suffered [3] - 105:10, 149:24, 191:3
suggest [4] - 99:21, 99:26, 141:29, 143:13
suggested [3] - 91:25, 99:1, 99:25
suggesting [1] - 127:1
suggestion [1] - 100:19
suitable [2] - 19:3, 96:11
summary [3] - 37:6, 37:12, 171:29
summary/pro [1] - 36:29
summer [1] - 121:19
SUNLIGHT [1] - 3:7
superintendent [22] - 18:5, 27:24, 28:24, 64:23, 64:28, 72:19, 73:1, 73:17, 91:6, 91:15, 92:26, 96:9, 96:25, 97:8, 115:6, 115:13, 116:24, 157:12, 160:19, 160:21, 160:28, 164:2
Superintendent [44] - 16:24, 17:24, 18:14, 19:29, 21:28, 23:10, 23:13, 24:9, 28:14, 31:9, 38:24, 42:4, 42:7, 44:6, 49:11, 54:15, 61:27, 62:4, 62:9, 62:17, 63:5, 63:12, 63:17, 63:24, 64:16, 65:19, 80:12, 80:25, 82:9, 86:25, 87:12, 88:28, 89:1, 91:4, 91:19, 93:5, 99:6, 110:18, 117:24, 123:16, 155:19, 156:10, 160:20, 164:6
superior [1] - 79:18
supervision [3] - 38:17, 44:3, 143:22
supplied [1] - 3:29
Support [1] - 133:22
suppose [67] - 7:23, 9:2, 13:20, 13:25, 17:27, 20:12, 25:12, 26:2, 26:11, 26:21, 26:23, 27:28, 39:22, 43:16, 49:2, 58:11, 63:3, 63:29, 64:11, 64:12, 65:21, 67:9, 69:8, 77:22, 78:27, 80:1, 80:27, 82:3, 82:5, 82:13, 82:14, 83:21, 87:8, 87:22, 88:19, 89:5, 89:12, 96:5, 97:27, 98:5, 99:4, 99:11, 102:27, 108:12, 110:29, 112:7, 112:10, 113:1, 113:27, 114:9, 114:17, 114:28, 117:19, 117:24, 117:26, 118:27, 119:11, 134:28, 141:9, 146:9, 151:25, 176:29, 186:5, 187:15, 192:17, 194:15
supposed [2] - 111:26, 147:4
supposedly [1] - 147:8
SUPREME [2] - 1:13, 2:3
SUPT [1] - 3:5
surely [2] - 69:28, 128:28
surname [15] - 105:15, 105:20, 109:6, 151:15, 151:26, 152:12, 152:14, 178:5, 189:22, 192:4, 192:6, 192:9, 193:19, 194:2, 194:14
surnames [2] - 47:26, 179:4
surprise [2] - 66:4, 134:10
surrounding [3] - 70:26, 131:18, 132:16
survivors [3] - 18:17, 22:2, 94:13
suspect [7] - 75:10, 167:29, 171:6, 177:1, 179:10, 179:14, 179:16
suspected [10] - 95:18, 144:15, 145:16, 145:20, 157:11, 160:15, 161:17, 181:15, 181:29, 182:17
SW [1] - 197:3
SWORN [1] - 121:7
sworn [1] - 44:18
system [32] - 8:29, 9:5, 9:19, 22:21, 30:21, 36:21, 42:20, 42:21, 42:25, 45:3, 55:3, 119:26, 120:7, 125:17, 126:9, 126:11, 126:17, 126:20, 126:22, 127:3, 127:14, 127:16, 127:26, 128:2, 128:7, 129:25, 129:29, 167:15, 169:14, 170:12, 170:25
System [1] - 120:7
systemic [1] - 73:7
Sióchána [73] - 12:6, 19:13, 19:25, 27:6, 27:9, 27:10, 31:4, 42:14, 43:2, 44:1, 49:28, 50:13, 51:6, 51:10, 51:12, 51:16, 51:17, 51:25, 51:26, 51:28, 52:2, 52:6, 52:14, 52:19, 52:24, 53:2, 53:12, 53:19, 53:23, 53:28, 54:2, 54:4, 54:11, 56:24, 57:1, 62:27, 68:15, 70:19, 71:23, 72:12, 75:14, 75:22, 83:6, 84:13, 84:15, 85:5, 86:23, 89:2, 90:15, 90:22, 110:25, 124:28, 130:29, 131:7, 131:10, 131:19, 132:15, 142:18, 144:15, 145:4, 145:21, 146:21, 146:22, 147:19, 147:25, 148:2, 157:19, 160:20, 163:3, 163:9, 164:16, 181:6, 181:9
Sióchána's [1] - 131:5

T

tab [16] - 33:27, 34:3, 34:23, 35:8, 36:10, 36:26, 36:27, 37:15, 38:13, 39:9, 39:11, 39:29, 40:4, 140:14
table [2] - 140:8, 140:12
task [11] - 13:3, 13:20, 99:8, 99:9, 130:9, 143:3, 156:19, 156:20, 158:20, 158:24, 173:16
tasks [4] - 114:12, 125:11, 125:25, 128:8
TAYLOR [1] - 3:5
Team [1] - 87:21
team [49] - 7:26, 23:18, 23:19, 28:22, 32:27, 39:6, 44:3, 69:15, 86:28, 90:13, 103:14, 103:23, 122:1, 122:2, 122:3, 122:4, 122:5, 123:13, 124:10, 125:24, 126:14, 127:10, 143:20, 143:22, 145:1, 156:3, 156:5, 157:22, 159:14, 159:18, 159:20, 159:23, 163:26, 165:21, 170:1, 170:2, 170:13, 176:10, 181:16, 183:14, 187:20, 187:22, 197:18, 197:27, 197:28, 198:8, 198:10, 198:29
tease [1] - 100:23
technical [1] - 54:28
technology [1] - 133:3
tee [1] - 69:6
telephone [20] - 5:27, 36:2, 46:12, 52:28, 84:4, 98:9, 125:7, 134:29, 135:4, 138:3, 138:5, 138:11, 140:27, 140:29, 141:6, 141:7, 141:12, 149:8, 150:12, 163:27
television [1] - 132:19
template [5] - 5:25, 34:10, 39:2, 39:7, 134:18
temporary [1] - 122:4
TEN [1] - 2:27
ten [2] - 199:15, 199:18
tend [2] - 138:5, 153:1
terminology [1] - 103:13
terms [18] - 5:24, 9:18, 12:26, 14:17, 27:21, 30:3, 40:22, 41:3, 49:25, 87:9, 97:5, 105:17, 106:8, 106:24, 124:16, 129:9, 131:3, 178:22
TERRACE [2] - 2:27, 3:17
terrible [2] - 128:29, 129:1
terribly [2] - 90:1, 188:14
thank's [1] - 191:23
that'd [1] - 133:24
THE [15] - 1:4, 1:8, 1:9, 1:12, 2:3, 2:6, 2:18, 2:22, 3:16, 4:9, 5:1, 111:11, 120:17, 121:1, 199:20
THEN [2] - 111:11, 199:20
then-
Commissioner [1] - 130:28
then-HSE [1] - 121:21
therapeutic [4] - 18:16, 22:1, 25:27, 94:13
thereafter [3] - 62:13, 84:11, 196:12
therefore [7] - 9:18, 17:1, 25:6, 56:13, 67:2, 79:14, 135:21
thinking [3] - 57:9, 139:18, 188:2
third [6] - 8:14, 22:28, 179:15, 181:26, 193:23, 195:11
threaten [4] - 105:12, 149:27, 150:27, 191:6
threatened [3] - 162:11, 180:22, 188:21
three [18] - 36:29, 38:1, 55:17, 63:22, 89:21, 97:4, 115:5, 128:28, 138:24, 153:22, 162:19, 166:26, 168:6, 176:4, 181:1, 189:1, 193:21, 196:3
throwing [1] - 159:19
tick [5] - 11:5, 11:14, 11:18, 12:9, 12:16
ticked [19] - 8:21, 10:18, 11:9, 11:11, 11:17, 11:22, 11:29, 12:5, 12:7, 142:18, 154:6, 161:20, 179:26, 180:6, 196:10, 196:13, 196:14, 196:15, 196:17
ticking [3] - 99:29, 114:22, 116:2
tickled [2] - 55:24, 139:2
Tiernan [2] - 24:28, 184:1
Tiernan's [2] - 24:20, 24:24
timeframe [1] - 70:29

TIMES [1] - 3:16
timing [2] - 80:2, 115:27
Tinnelly [26] - 15:3, 15:4, 15:6, 15:7, 17:9, 17:13, 30:10, 42:1, 46:15, 53:22, 54:22, 54:25, 56:12, 56:19, 56:27, 58:6, 58:25, 58:28, 59:1, 59:4, 60:14, 81:15, 136:16, 149:2, 166:19, 173:7
Tinnelly's [2] - 13:13, 55:9
TO [1] - 5:7
today [7] - 122:19, 123:2, 130:19, 130:26, 135:11, 139:14, 158:4
toddlers [1] - 111:21
together [11] - 57:23, 72:17, 136:1, 136:15, 155:24, 187:6, 187:9, 189:3, 189:4, 190:2, 193:20
together' [1] - 190:5
took [15] - 15:26, 51:20, 67:17, 67:18, 101:11, 102:16, 106:23, 122:23, 139:21, 142:28, 147:13, 156:18, 172:5, 191:13, 197:17
top [16] - 5:16, 16:13, 32:18, 55:25, 85:22, 103:16, 105:21, 109:10, 111:15, 136:10, 136:14, 136:27, 139:3, 149:7, 151:17, 166:3
totally [7] - 133:7, 147:14, 150:3, 158:16, 175:16, 189:6, 193:29
touched [2] - 55:24, 139:2
touching [1] - 79:11
towards [2] - 137:14, 160:3
transcribed [1] - 189:20
transcribing [1] - 193:14
transcript [2] - 1:26, 54:29
Transcripts [1] - 3:28
transferred [1] - 121:26
transparent [1] -

101:12
transposing [1] - 193:8
travel [1] - 38:9
travelling [1] - 132:24
tray [7] - 59:2, 104:27, 197:14, 198:1, 198:7
treated [1] - 19:19
treatment [1] - 38:9
Tribunal [35] - 5:10, 11:21, 18:7, 27:18, 31:15, 36:17, 50:23, 53:20, 54:24, 56:26, 65:14, 93:4, 94:23, 96:22, 96:28, 121:11, 121:17, 122:8, 122:12, 123:18, 124:2, 132:8, 133:12, 134:13, 148:14, 152:6, 155:16, 160:8, 169:27, 171:8, 171:18, 175:15, 197:29, 198:16, 199:13
TRIBUNAL [3] - 1:3, 2:6, 199:20
TRIBUNALS [1] - 1:9
tried [1] - 69:10
trouble [1] - 139:22
truly [1] - 92:2
try [4] - 20:13, 52:14, 171:6, 173:23
trying [9] - 48:23, 62:12, 70:3, 145:11, 145:22, 147:21, 152:5, 155:18
Tuesday [1] - 171:18
turn [15] - 88:26, 136:8, 148:2, 148:21, 153:14, 157:5, 157:7, 171:16, 174:20, 177:19, 188:5, 190:21, 191:11, 195:9, 196:27
turned [3] - 51:29, 54:10, 149:3
Tusla [8] - 30:28, 31:17, 90:2, 118:19, 126:26, 145:15, 147:22, 165:26
TUSLA [1] - 2:26
twice [1] - 152:12
Twitter [2] - 132:28, 133:2
two [65] - 11:28, 53:13, 55:17, 80:21, 85:26, 87:17, 90:25, 99:5, 111:17, 113:14,

123:8, 128:14, 128:15, 128:18, 128:19, 128:22, 129:15, 136:4, 138:24, 140:11, 150:8, 150:28, 151:11, 151:16, 153:22, 159:29, 160:5, 162:18, 166:17, 166:25, 167:8, 167:16, 167:29, 168:3, 168:5, 168:8, 168:12, 168:19, 168:23, 168:26, 169:3, 169:22, 169:24, 169:27, 170:6, 176:3, 176:27, 187:3, 187:5, 187:6, 187:7, 188:29, 189:5, 189:22, 190:4, 190:16, 191:14, 192:8, 192:21, 192:26, 193:4, 193:19, 193:20, 193:21
type [9] - 6:3, 6:23, 11:4, 20:27, 29:17, 70:4, 75:23, 115:24, 149:14
Type [1] - 142:11
typed [6] - 21:8, 36:7, 41:9, 62:18, 89:20, 174:8
types [1] - 11:16
typing [2] - 79:23, 194:5

U

UCD [1] - 121:16
ultimately [2] - 48:2, 102:15
unable [1] - 43:20
unallocated [9] - 29:2, 43:7, 43:8, 43:12, 49:25, 50:6, 106:19, 124:24, 142:28
unanswered [1] - 64:10
unaware [5] - 49:8, 71:11, 71:14, 75:17, 154:1
unbeknownst [1] - 99:13
unclear [1] - 111:28
undated [1] - 157:10
UNDER [2] - 1:3, 1:9
under [13] - 9:3, 10:10, 12:28, 35:20,

44:3, 61:4, 68:24, 122:27, 123:7, 123:11, 159:26, 169:3, 179:14
underneath [6] - 10:12, 12:4, 34:9, 137:20, 179:1, 196:16
understood [4] - 17:12, 58:15, 65:8, 196:24
undertaken [2] - 37:7, 70:12
unfinished [1] - 110:7
unfortunate [2] - 80:1, 93:26
unfortunately [10] - 7:5, 29:4, 43:22, 43:25, 44:16, 50:9, 68:11, 84:9, 125:27, 194:23
unfounded [1] - 72:21
unidentified [1] - 157:11
University [1] - 121:14
unknown [2] - 109:10, 137:24
unknown" [2] - 33:1, 153:28
unless [3] - 42:18, 58:4, 83:27
unnamed [1] - 131:27
unplanned [1] - 125:7
unserious [1] - 67:26
UNTIL [1] - 199:20
unusual [3] - 27:12, 90:1, 164:13
unwise [1] - 74:12
unwisely [1] - 74:12
up [61] - 5:18, 7:8, 11:2, 11:3, 33:18, 33:24, 35:2, 44:3, 44:7, 44:11, 44:16, 46:9, 48:6, 54:28, 58:17, 62:18, 69:6, 69:10, 79:23, 80:21, 81:6, 82:17, 84:6, 92:13, 93:2, 93:24, 95:24, 95:29, 96:17, 97:12, 98:21, 100:5, 102:13, 104:10, 107:3, 107:6, 112:1, 112:3, 112:17, 112:26, 113:9, 114:24, 116:25, 120:3, 122:13,

132:12, 133:17, 147:14, 148:3, 148:22, 150:12, 151:13, 151:17, 156:11, 159:16, 166:7, 171:20, 174:7, 176:19, 188:10, 192:25
up-to-date [1] - 176:19
updated [2] - 36:29, 37:29
updates [1] - 164:1
UPPER [1] - 2:30
upsetting [1] - 118:10
usual [9] - 66:10, 164:10, 164:11, 164:12, 164:13, 164:14, 176:12, 176:14

V

vaginal [7] - 105:11, 118:23, 149:26, 162:7, 180:18, 188:17, 191:5
valid [7] - 6:12, 6:13, 7:2, 67:22, 68:21, 164:24
various [4] - 133:29, 157:2, 171:11, 189:9
vast [1] - 113:26
verbal [7] - 22:5, 22:19, 30:8, 35:24, 41:25, 42:1, 108:3
verbally [2] - 17:9, 104:22
verbatim [1] - 1:26
verify [1] - 56:23
version [5] - 89:20, 105:22, 106:12, 141:4, 156:16
via [1] - 146:21
victim [10] - 10:11, 67:9, 77:20, 88:19, 148:4, 161:5, 161:12, 181:16, 183:7, 183:13
victim's [1] - 51:4
view [23] - 6:24, 20:17, 25:2, 25:3, 25:8, 25:12, 25:22, 26:12, 26:14, 26:17, 54:7, 60:6, 60:16, 66:15, 66:22, 78:29, 105:29, 108:8, 111:2, 111:4, 112:8, 160:9, 176:29

viewed [2] - 107:8,
107:9
visit [4] - 36:3, 174:8,
174:12
visited [1] - 172:5
visiting [6] - 105:27,
153:18, 162:14,
180:25, 188:24,
189:26
Volume [5] - 121:4,
133:15, 140:1, 140:7,
140:10
volume [6] - 31:21,
76:4, 140:11, 171:16,
174:6, 184:6

W

waiting [4] - 29:6,
43:21, 50:12, 63:5
walk [1] - 125:6
walk-in [1] - 125:6
WALLACE [1] - 2:24
wants [1] - 72:8
ward [3] - 16:13,
40:8, 45:9
ward's [1] - 48:3
WAS [5] - 50:19,
85:1, 107:19, 111:11,
121:7
watch [1] - 132:22
ways [1] - 71:20
Wednesday [1] -
31:27
wee [1] - 74:8
week [5] - 13:23,
98:28, 158:7, 197:16,
198:15
weekly [3] - 132:21,
197:16, 198:14
weeks [2] - 120:10,
130:27
Welfare [1] - 142:14
welfare [11] - 11:9,
11:14, 11:15, 11:16,
11:18, 34:6, 38:14,
77:2, 77:3, 124:20,
196:12
well-known [2] -
7:13, 77:20
whatsoever [3] -
31:5, 91:12, 147:16
whereabouts [2] -
64:25, 154:1
whereas [3] - 114:5,
189:15, 193:4
whereby [3] - 117:9,
118:18, 119:28
whilst [6] - 128:6,

132:20, 132:24,
139:3, 144:9, 183:6
whirlwind [1] - 72:15
whistleblowers [1] -
131:1
whistleblowing [2] -
131:12, 131:22
white [1] - 38:5
whole [3] - 58:1,
68:9, 69:8
wife [8] - 118:24,
153:20, 162:16,
174:24, 180:27,
181:23, 183:26,
188:26
Williams [1] - 131:25
wish [3] - 73:25,
92:19, 186:12
wishes [1] - 179:22
WITNESS [1] - 4:2
witness [26] - 15:20,
16:13, 45:26, 47:17,
48:12, 48:25, 50:25,
54:29, 72:11, 74:2,
75:9, 90:28, 92:12,
93:2, 93:15, 96:16,
100:20, 100:24,
121:3, 122:20,
122:28, 139:17,
155:10, 171:17,
192:14, 192:15
witness's [1] - 47:19
witnesses [1] -
190:26
wonder [4] - 139:10,
182:25, 195:26,
196:21
wondering [6] -
46:20, 53:26, 73:29,
128:22, 137:10,
193:13
word [10] - 46:18,
120:1, 120:2, 136:28,
137:3, 137:8, 137:9,
137:13, 137:15,
187:11
word-processing [1]
- 46:18
worded [1] - 165:11
words [11] - 45:2,
56:9, 59:11, 65:7,
92:28, 102:5, 117:9,
138:10, 187:7, 189:3,
192:29
worker [62] - 5:24,
5:26, 6:17, 12:29,
13:3, 13:7, 30:22,
33:19, 35:28, 37:1,
44:2, 66:7, 69:10,
70:4, 101:24, 109:22,

109:24, 113:4,
121:12, 121:19,
122:1, 122:2, 122:3,
122:5, 124:9, 124:15,
124:17, 124:18,
124:24, 125:1, 125:3,
125:5, 125:16,
125:29, 126:3,
126:12, 127:10,
127:11, 127:15,
127:19, 128:3, 128:8,
128:9, 137:14,
141:28, 143:6,
148:28, 149:9,
149:11, 149:12,
158:19, 159:14,
159:22, 160:2, 161:2,
163:21, 170:3,
184:20, 187:27,
198:8, 198:12, 198:15
worker's [1] - 38:1
workers [7] - 6:2,
14:6, 43:9, 119:10,
155:25, 159:3, 185:16
workload [3] - 21:5,
67:12, 82:24
works [1] - 124:29
worried [2] - 129:2,
172:15
write [9] - 18:2,
59:17, 60:8, 92:27,
97:7, 118:1, 118:15,
119:2, 119:15
writes [2] - 96:8,
109:24
writing [16] - 16:10,
16:23, 25:15, 47:21,
61:28, 79:6, 79:22,
86:2, 99:13, 104:7,
109:25, 117:6,
117:13, 138:8,
168:19, 176:9
written [56] - 3:30,
10:29, 22:7, 28:23,
29:29, 30:7, 35:24,
41:11, 42:8, 46:17,
50:24, 54:19, 62:3,
79:3, 80:14, 80:23,
80:27, 80:29, 82:15,
91:15, 91:18, 92:24,
92:26, 95:20, 106:12,
109:16, 109:28,
119:11, 119:28,
123:15, 131:25,
131:28, 133:26,
135:2, 135:5, 135:6,
135:11, 135:20,
135:21, 135:27,
138:4, 138:5, 148:10,
150:13, 150:14,

153:1, 153:2, 156:4,
161:9, 169:13, 173:9,
178:8, 182:4, 186:27
wrote [32] - 22:25,
27:11, 29:24, 31:6,
31:9, 38:24, 40:6,
51:5, 59:22, 59:27,
60:2, 61:26, 62:16,
62:28, 65:1, 65:3,
65:5, 77:9, 78:3, 78:4,
79:18, 82:8, 82:9,
115:4, 115:7, 155:11,
165:24, 167:12,
183:29, 184:7, 187:10

X

x4 [1] - 176:6

Y

Y's [7] - 105:15,
105:20, 150:23,
150:27, 151:11,
152:12, 191:6
Y/D [1] - 44:28
year [7] - 25:18,
47:10, 47:16, 121:29,
125:28, 134:12,
151:13
years [30] - 26:10,
31:22, 65:23, 65:25,
66:10, 66:28, 90:25,
90:26, 119:8, 128:26,
153:23, 154:8, 162:9,
162:19, 163:8,
166:26, 168:8, 169:3,
172:17, 176:27,
180:20, 181:1, 181:8,
182:28, 182:29,
183:7, 189:1
yellow [2] - 34:6,
36:27
Yes [1] - 154:6
yesterday [12] - 5:9,
6:7, 7:1, 13:25, 14:2,
16:18, 31:29, 59:1,
76:20, 112:16,
112:22, 112:24
you' [1] - 117:12
young [3] - 6:20,
43:22, 68:6
yourself [4] - 15:16,
17:16, 49:9, 81:14
YVONNE [1] - 3:9

É

ÉIREANN [2] - 1:5,
1:6