

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

ESTABLISHED BY INSTRUMENT MADE BY THE MINISTER FOR JUSTICE  
AND EQUALITY UNDER THE TRIBUNALS OF INQUIRY (EVIDENCE) ACT  
1921, ON 17 FEBRUARY 2017, AS AMENDED ON 7 DECEMBER 2018

CHAIRMAN OF DIVISION (P): MR. JUSTICE SEAN RYAN,  
FORMER PRESIDENT OF THE COURT OF APPEAL

HELD IN DUBLIN CASTLE  
ON THURSDAY, 17TH OCTOBER 2019 - DAY 102

102

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

GWEN MALONE STENOGRAPHY  
SERVICES

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4. DETECTIVE INSPECTOR MICHAEL COPPINGER
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I N D E X

W I T N E S S

P A G E

G A R D A N I C H O L A S K E O G H

Q U E S T I O N E D B Y M R . M C G U I N N E S S . . . . . 7

1 THE HEARING RESUMED, AS FOLLOWS, ON THURSDAY, 17TH  
2 OCTOBER 2019:

3  
4 CHAIRMAN: Yes, Mr. Kelly. Take your time.

5 MR. KELLY: Chairman, thank you very much for having 10:54  
6 given us the time. Having re-examined the relevant  
7 documents and taken instructions of Garda Keogh, we are  
8 of the view now that we don't wish to pursue that  
9 issue, Issue 8.

10 CHAIRMAN: Very good. 10:55

11 MR. KELLY: The view I personally take is, it's a  
12 matter for the Tribunal of Inquiry.

13 CHAIRMAN: Yes, but as far as you and your client are  
14 concerned, you are not pursuing that part of Garda  
15 Keogh's complaint. 10:55

16 MR. KELLY: Correct.

17 CHAIRMAN: Okay.

18 MR. MURPHY: I am very grateful to my friend for that  
19 clarification.

20 CHAIRMAN: Okay. Thank you very much. Well, it seems 10:55  
21 to me that the proper course for the inquiry to take is  
22 to note that. Mr. McGuinness will, therefore, not ask  
23 Garda Keogh any questions arising out of that. Any  
24 submissions that anybody wants to make as a consequence  
25 of that are another day's work. But witnesses will not 10:55  
26 now be asked, subject to any application or whatever in  
27 due course, but for the present all we need do is  
28 simply to pass over issue number 8 as not being  
29 proceeded with in evidence by Garda Keogh. Isn't that

1 the appropriate thing?  
2 MR. MURPHY: Yes, Chairman.  
3 CHAIRMAN: Is everybody happy with that?  
4 MR. McGUI NNESS: I think so, Chairman.  
5 CHAIRMAN: That seems the right thing to do. 10:56  
6 MR. McGUI NNESS: I am grateful to Mr. Kelly for  
7 confirming the position.  
8 CHAIRMAN: Yes, thanks very much, Mr. Kelly.  
9 MR. McGUI NNESS: It assists the Tribunal.  
10 CHAIRMAN: Very good. So that's the way we will leave 10:56  
11 it. That's the only thing we need to do, we don't need  
12 to debate anything else; any implications, consequences  
13 or anything of that kind. All right. Thank you very  
14 much. Okay.  
15 10:56  
16 GARDA NICHOLAS KEOGH CONTINUED TO BE QUESTIONED BY  
17 MR. MCGUI NNESS:  
18  
19 CHAIRMAN: Next business, Mr. McGuinness, then is  
20 which? 10:56  
21 MR. McGUI NNESS: It is issue number 10, Chairman.  
22 CHAIRMAN: Thank you.  
23 1 Q. MR. McGUI NNESS: Good morning, Garda Keogh?  
24 A. Good morning.  
25 2 Q. Issue number 10 relates to a complaint concerning the 10:56  
26 denial of a request made by you for the cancellation of  
27 annual leave?  
28 A. Yes.  
29 3 Q. At the end of August of 2015. I think we looked

1 yesterday in a different context, Superintendent Murray  
2 came to your house -- or sorry, was it your house or  
3 the station, on the night of the 30th August. I think  
4 you noted, he served a regulation notice, a discipline  
5 notice on you, is that right? we looked at 10:57  
6 Superintendent Murray's note of that meeting, you  
7 recall that?

8 A. Yes. Yes, that's correct.

9 4 Q. Yes, you recall that. In your statement to the  
10 Tribunal, which is at page 131, and we might look at 10:58  
11 that on the screen, you say in your statement:

12  
13 "I applied to cancel an annual leave day, namely  
14 31/8/2014, for the purpose of attending a GSOC  
15 appointment..." 10:58

16  
17 If we just scroll down the screen there a little bit.

18  
19 "...under the protected disclosures. My line manager,  
20 Sergeant Monaghan, approved my request. Superintendent 10:58  
21 Murray, who was aware of the confidentiality of GSOC  
22 communications with members, countermanded this  
23 approval, citing absence of a proper explanation, in  
24 circumstances where I could not provide any more  
25 specific explanation, given the confidential nature of 10:58  
26 GSOC disclosures."

27  
28 You refer to appendix 9. Perhaps we should look at  
29 that. Page 211 in the papers.



1 CHAIRMAN: Am I just being stupid or should that be  
2 2015?  
3 MR. McGUI NNESS: I'm sorry.  
4 CHAIRMAN: Because Superintendent Murray didn't come  
5 until March '15. He came on the 9th March '15, is that 10:59  
6 right.  
7 MR. McGUI NNESS: Yes, that's correct.  
8 WITNESS: Yeah.  
9 CHAIRMAN: So that really should be '15.  
10 A. You're correct. 10:59  
11 5 Q. CHAIRMAN: And the leave in question was 31st August  
12 2015?  
13 A. '15, yes, Judge.  
14 6 Q. CHAIRMAN: Am I right in that?  
15 A. Yes. 10:59  
16 CHAIRMAN: Okay, thank you very much. I wrote down  
17 '15.  
18 7 Q. MR. McGUI NNESS: So page 211, I think relates to your  
19 application. That's addressed by to Sergeant Monaghan?  
20 11:00  
21 "Re annual leave 31/8. Garda Keogh. With reference to  
22 above, I took annual leave on 31/8/2015; however, I was  
23 required to meet GSOC that day in Portlaoise and I  
24 requested to have the annual leave cancelled for that  
25 day, Monday 31/8/2015. Forwarded for your 11:00  
26 consideration, please."  
27  
28 If you go down the page slightly there. It says:  
29

1 "Garda Keogh application approved. Sergeant Monaghan."

2

3

It's date stamped the 2nd September. I am sure you noticed that Superintendent Murray in his statement said a sergeant can't approve that under the regulations. I don't know if you agree with that or not?

11:00

7

8

A. I'm just not aware of that.

9

8 Q. Okay. If we just go back up to the top then. It seems to be endorsed by Superintendent Murray there.

11:00

10

11

12

"Application refused in the absence of any proper explanation."

13

14

15

That was I think communicated to you. Just perhaps if we look at it, at page 210. Sent down to you then by Sergeant Monaghan.

11:01

16

17

18

19

"Re: Application for cancellation. With reference to the above, Superintendent Murray has refused

11:01

20

21

cancellation of this day's leave in the absence of proper explanation. If you still wish to have this day

22

23

considered for cancellation, can you forward a

24

comprehensive report as to the reasons and attach same to your D9 and resubmit.

11:01

25

26

27

Forwarded for your information and consideration."

28

29

That is signed by Sergeant Monaghan. I think it's

1 correct to say that you didn't, as it were, take that  
2 further in the sense of submitting any further report,  
3 factually, at that point in time?

4 A. Yes.

5 9 Q. Okay. Now, I just want to understand the position. 11:02  
6 Obviously in your statement you say you applied to  
7 cancel an annual leave day for the purpose of attending  
8 a GSOC appointment. You had, in fact, attended before  
9 you made the application that we're looking at here, is  
10 that correct? 11:02

11 A. It's probably correct, I can't remember the sequence of  
12 events.

13 10 Q. Yes. Well, I may be misreading the statement that we  
14 looked at on page 131. If we just go back to page 131.  
15 Down the page there, at number 10. 11:02  
16

17 "I applied to cancel an annual leave day for the  
18 purpose of attending a GSOC..."

19

20 As I understand the position, and this is why I am 11:03  
21 asking you to correct me if I am wrong, you hadn't  
22 applied in advance of the appointment, isn't that  
23 right?

24 A. It would appear to be.

25 11 Q. Yes. So is it the position then that you had the 31st 11:03  
26 August scheduled as an annual leave say, on that day?

27 A. Yes.

28 12 Q. This is one of the points made, I am sure you have seen  
29 Superintendent Murray's statement: when you met him on

1 the 30th, as it stood at that at that point in time, it  
2 appeared that you were going off duty and wouldn't be  
3 in the next day because of your annual leave?  
4 A. Yes.  
5 13 Q. In fact, unbeknownst to him, if I am correct, and I may 11:04  
6 not be correct, unbeknownst to him, you had a GSOC  
7 appointment, is that correct?  
8 A. That's correct. I can't recall just exactly how that  
9 GSOC appointment -- I think, just from recollection, I  
10 think the appointment was not a long-term, it wasn't 11:04  
11 preplanned long-term. I think it cropped up fairly  
12 soon prior to the meeting. The meeting was arranged.  
13 14 Q. CHAIRMAN: It wasn't a long arranged meeting?  
14 A. Yes.  
15 15 Q. CHAIRMAN: Okay. 11:04  
16 A. I think it was a very short period of time that the  
17 that the meeting was arranged. Just from recollection.  
18 16 Q. MR. McGUINESS: Yes. It's a curiosity just, in terms  
19 of the regulations. Having taken the day of annual  
20 leave and obviously not done regular duty, can you 11:05  
21 apply to cancel that retrospectively?  
22 A. I don't think there's anything wrong with applying to  
23 cancel it retrospectively.  
24 17 Q. Okay.  
25 A. Under the circumstances, as I said, it wasn't a thing 11:05  
26 that I knew, let's say, a month or two months in  
27 advance.  
28 18 Q. CHAIRMAN: It came up pretty quickly, you say.  
29 A. Just from my memory, yes.

1 19 Q. CHAIRMAN: You went and you made the -- it looks like  
2 you attended GSOC?  
3 A. I did.  
4 20 Q. CHAIRMAN: And then you applied to say, look, did I  
5 that on a day of leave and I should be entitled to undo 11:06  
6 the leave so I save myself a day. That was it?  
7 A. That's correct.  
8 21 Q. CHAIRMAN: It wasn't refused on the ground that it was  
9 retrospective?  
10 A. Yes. 11:06  
11 22 Q. CHAIRMAN: So it looks like there doesn't seem to be a  
12 logical reason why you couldn't do it. So either way,  
13 assuming that that's what happened. Anyway that's...  
14 23 Q. MR. MCGUINNESS: In relation to the memo that we had  
15 looked at from Sergeant Monaghan back to you, I think 11:06  
16 you agreed with me a few minutes ago, you didn't take  
17 it further and you were asked by our investigators  
18 about this, if you may recall, in the course of their  
19 enquiries with you. At page 58 and 59 of that. We may  
20 not need to see it, unless you want to. You said: 11:06  
21  
22 "No. They knew I was going to meet GSOC, as per my  
23 handwritten letter dated 1/9/2015. But Superintendent  
24 Murray was looking for a comprehensive report of what I  
25 was going to meet GSOC about. The protected disclosure 11:07  
26 process is supposed to be protected and confidential.  
27 Former Garda Commissioner O'Sullivan was saying  
28 publicly she supported whistleblowers, but I feel  
29 Superintendent Murray was looking to ascertain

1 confidential information about my meeting with GSOC. I  
2 felt I had given an explanation and I did not feel I  
3 needed to give a further explanation that I had already  
4 set out that I had to with GSOC.

11:07

5  
6 The superintendent would have been aware that there  
7 were no papers served on me by GSOC in relation to any  
8 work related investigation and that I was not a witness  
9 to any investigation being conducted by GSOC, as this  
10 paperwork is always dealt with through the ranks.

11:07

11  
12 As I have said, I believe that Superintendent Murray  
13 was aware that this meeting with GSOC related to my  
14 protected disclosure and given the protection as in  
15 that legislation, I felt that I had outlined as much as  
16 I could in my initial explanation in writing." 11:08

17  
18 Can I just ask you a couple of questions about that

19 A. Sure.

20 24 Q. It's not evident from anything we have seen that 11:08  
21 Superintendent Murray knew in advance that you were  
22 going to meet GSOC on the 31st. would you agree with  
23 that?

24 A. I would agree with that, yeah.

25 25 Q. Okay. In terms of what you have said there, that the 11:08  
26 superintendent would have been aware that there were no  
27 papers served on you by GSOC, that's correct, isn't  
28 that right?

29 A. Yes.

1 26 Q. So you weren't being, as it were, to his knowledge  
2 required as part of a GSOC investigation?  
3 A. That's my understanding, yeah.

4 27 Q. He, for his part, said in a statement that he wasn't  
5 aware that there was a GSOC involvement in your 11:09  
6 protected disclosure. Is there anything that you can  
7 point to which shows that he was or should have been  
8 aware that your attendance at GSOC related to your  
9 protected disclosure?  
10 A. It would be common knowledge that I made a protected 11:09  
11 disclosure. He would be very well aware I made a  
12 protected disclosure.

13 28 Q. Yes.  
14 A. I mean, I can't speak for him.

15 29 Q. Yes. 11:09  
16 A. For Superintendent Murray.

17 30 Q. Yes.  
18 A. But, the way it would work was, if a complaint, for  
19 example, had been made against me and GSOC were  
20 investigating, it would come through the super's office 11:10  
21 and then come down to me. I'd be served papers. There  
22 was nothing like that. So my meeting with GSOC, I  
23 mean, it would have been common sense, it was something  
24 to do with protected disclosures.

25 31 Q. Yes. But as I understand it, you hadn't made a 11:10  
26 protected disclosure to GSOC, nor had you made a  
27 statement to them until the 2nd October 2015?  
28 A. Just one moment. You see, I had been in contact with  
29 GSOC for a while.

1 32 Q. Yes.

2 A. Because in 2014 the law changes from the Garda  
3 Síochána Act to the protected disclosure thing.

4 33 Q. Yes.

5 A. AS I stated earlier, at the very start, I had actually 11:10  
6 tried to make my complaint originally to GSOC via  
7 Deputy Luke Flanagan and retired Garda John Wilson at  
8 that point. They couldn't deal with it. So I had to  
9 go through the Garda Síochána Act. The Guards had  
10 started their investigation and I think at some stage, 11:11  
11 is it six months later, the law changes.

12 34 Q. Yes.

13 A. In 2014. But I had been in contact with GSOC in  
14 relation to problems with the Garda investigation.  
15 Basically, at certain points I would have put GSOC on 11:11  
16 notice, this is what's going on.

17 35 Q. Yes.

18 A. And at some point I am possibly going to report this  
19 matter to ye, and just to put ye on notice of that?

20 36 Q. Yes. I don't know, would you accept that -- I mean, 11:11  
21 you are obviously completely correct that  
22 Superintendent Murray was aware of your protected  
23 disclosure made originally?

24 A. Yeah.

25 37 Q. But would you accept that he wouldn't have been aware 11:12  
26 of any contact that you had with GSOC about complaints  
27 concerning the investigation or your intention to make  
28 a complaint to them?

29 A. Well he shouldn't have been.



1 38 Q. He shouldn't have been?  
2 A. Yes.  
3 39 Q. Had he any reason --  
4 A. I hope he wasn't.  
5 40 Q. Have you any reason to suggest that he was in fact 11:12  
6 aware that you were going to GSOC yourself or that you  
7 had been in contact with them about different aspects  
8 of the investigation?  
9 A. I don't think he was aware and, as I said, I hope he  
10 wasn't. 11:12  
11 41 Q. Yes.  
12 A. I hope at the time, obviously is what I am trying to  
13 say, yes.  
14 42 Q. Yes. I mean, we're obviously going to hear from 11:12  
15 Superintendent Murray, but he, for his part, having met  
16 you on the night of the 30th, he didn't know you were  
17 going to GSOC. Then, when he got the explanation that  
18 you had been to GSOC, he thought it was sort of,  
19 slightly vague is the way he put it in his statement.  
20 He wasn't sure if it was genuine or not. I am 11:13  
21 wondering, would you have been able to produce any note  
22 of a letter or an appointment or anything to him, if he  
23 had taken it further, in a further report?  
24 A. Well, if that were the case. And I understand exactly  
25 what you are saying. 11:13  
26 43 Q. Yes.  
27 A. If that were the case, it would be very simple for him  
28 to just write to GSOC and say, here, GSOC, there's an  
29 issue here.

1 44 Q. Yes.

2 A. Can you just confirm whether you have business with  
3 this guard or not. End of story. It would have been  
4 very simple.

5 45 Q. Yes. That is absolutely one possible route. I suppose 11:13  
6 the other route would be for you to ask -- was it  
7 Mr. Butler you were meeting?

8 A. Sorry, what date?

9 46 Q. It doesn't really matter, perhaps.

10 A. Ken Isac and Mr. Butler. Either way, I think it was 11:14  
11 Ken Isac, he was the head investigator with GSOC, and  
12 Mr. Butler. I had a good few meetings with GSOC. If  
13 you give me the date, I can -- if it's relevant.

14 47 Q. Well, it's this date?

15 CHAIRMAN: 31st August. 11:14

16 MR. McGUI NNESS: 31st August.

17 CHAIRMAN: But it doesn't really matter who it was.

18 MR. McGUI NNESS: It doesn't probably matter.

19 48 Q. CHAIRMAN: Mr. McGuinness is asking you about --

20 A. Ken Isac and Ronan butler. 11:14

21 CHAIRMAN: Okay.

22 49 Q. MR. McGUI NNESS: The suggestion that you made about the  
23 Guards writing to GSOC, equally, on receipt of Sergeant  
24 Monaghan's notification of refusal, you might perhaps  
25 might have gone to GSOC and said, look, will you 11:14  
26 confirm that you met me on that day. Maybe that would  
27 have solved the whole problem. I am wondering, did you  
28 think of that? I am not criticising you if you didn't,  
29 but is it something you did think of?

1 A. That I should have gone to GSOC.

2 50 Q. You could have, yes. You could have, possibly, you  
3 could have gone to GSOC and said, look, my super  
4 doesn't seem to be certain that that's a good enough  
5 reason, but would you confirm that I did go to GSOC? 11:15

6 A. That's kind of six of one and half a dozen of the  
7 other.

8 51 Q. I suppose it is?

9 A. He could have equally written to GSOC.

10 52 Q. Then you might well have complained that he was, in 11:15  
11 fact, trying to find out, if he had written behind your  
12 back I mean?

13 CHAIRMAN: I don't think GSOC would have told him.

14 MR. McGUI NNESS: well, they probably wouldn't.

15 53 Q. CHAIRMAN: If he wrote and said, did Garda Keogh -- but 11:15  
16 I suppose you would say, I am just guessing,  
17 speculating, if Superintendent Murray's concern was,  
18 did Garda Keogh really go to GSOC on the 31st, or was  
19 he somewhere else and using this as an excuse. If that  
20 was the case, I suppose you would say, he could have 11:16  
21 come back to you and said, listen, please give me some  
22 confirmation that you were with GSOC. Is that a  
23 reasonable point of view? Would that reflect your sort  
24 of point of view more or less? You didn't say that,  
25 but I'm sort of assuming that that's what you're... 11:16

26 A. Yes. Just, the notice that we had just on the screen  
27 to do with the -- it's gone off the screen.

28 54 Q. CHAIRMAN: Proper explanation, is it?

29 A. Yeah, proper explanation, yeah. The last thing that

1           came up on the screen.

2   55   Q.   CHAIRMAN:  Yes.

3           A.   I think it has comprehensive, is it not comprehensive?

4   56   Q.   MR. MCGUINNESS:  No, "any proper explanation".

5           A.   But on the screen -- 11:16

6   57   Q.   CHAIRMAN:  Sergeant Monaghan required a comprehensive,  
7           you are right he, wanted full details?

8           A.   A comprehensive report.

9   58   Q.   CHAIRMAN:  But Superintendent Murray, he said "proper  
10          explanation".  Okay.  And we are exploring that.  Okay. 11:16

11   59   Q.   MR. MCGUINNESS:  So did you take that, I don't want to  
12          put words in your mouth, as Superintendent Murray  
13          requiring you to explain why you had gone to GSOC?

14          A.   That's the way it appears, comprehensive report is what  
15          I received.  I don't know, like, I am not sure, it's a 11:17  
16          long time since I read the protected disclosures bill,  
17          I am not sure if it is even lawful that a person could  
18          -- that a senior officer would ask for a proper -- for  
19          comprehensive report, you know, as to a meeting with  
20          GSOC, when it is very apparent it is something to do 11:17  
21          with protected disclosures.

22   60   Q.   One factual submission made on your behalf to  
23          Mr. de Bruir, and I only raise it in that context, is  
24          that it was asserted that you were prohibited from  
25          saying more to him, more to Superintendent Murray in 11:17  
26          terms of the matter.  Did you consider that you  
27          couldn't tell him any details about the fact of the  
28          appointment or that it stopped you going to GSOC and  
29          looking for a letter to say, look, I did meet you?

1 A. Any dealings with me and GSOC is supposed to be  
2 confidential. Just from recollection, that is a fairly  
3 big thing in their...

4 61 Q. Yes, in terms of any content obviously.

5 A. Yes. 11:18

6 62 Q. But you, in order to recoup the day that you had taken  
7 for annual leave, I presume did have financial  
8 consequences if you were going to get it back, although  
9 not having been on duty, you had to yourself explain  
10 that you had gone to GSOC. That's the only context in 11:18  
11 which I raise the issue. Do you follow that?

12 A. Yes. And again, like, it is not that again I was  
13 looking for annual leave and they might have been down  
14 on manpower or anything like that. It was just to  
15 cancel a day's annual leave. It wasn't a major thing 11:19  
16 operational wise on the ground or anything, it didn't  
17 affect anything there.

18 63 Q. Yes. But is it your evidence that what Superintendent  
19 Murray did in the circumstances was targeting you  
20 because of your original protected disclosure? 11:19

21 A. I am just trying to -- just one moment, targeting  
22 discrediting, I am trying to get which category it  
23 falls under.

24 64 Q. CHAIRMAN: Victimising.

25 A. Yes. 11:19

26 65 Q. MR. MCGUINNESS: Either, or whatever?

27 A. Yes, the sergeant approves the thing. As I said, it's  
28 not a major deal because it's just to cancel a day's  
29 annual leave. The sergeant approves it and then

1 Superintendent Murray doesn't approve it and he's  
2 looking for explanations.

3 66 Q. Okay. You are saying it's targeting for that reason,  
4 is that right?

5 A. I think so. 11:20

6 67 Q. Did you feel that way at the time?

7 A. Oh yeah. Well I wouldn't put it in my stuff if I  
8 didn't feel it was proper.

9 CHAIRMAN: Okay, very good.

10 MR. McGUI NNESS: I am going to pass on from that. 11:20

11 68 Q. CHAIRMAN: Thanks very much. Nothing else you want to  
12 say about that?

13 A. No.

14 CHAIRMAN: Thanks very much.

15 69 Q. MR. McGUI NNESS: The next issue, Garda Keogh, is issue 11:21  
16 number 11, which complains that you were confined to  
17 indoor duty.

18 A. Yes.

19 70 Q. On 22nd October 2015.

20 A. Yes. 11:21

21 71 Q. I am sure you recall that indeed. You say in your  
22 statement, page 135, perhaps we might look at that:  
23  
24 "During this period..."  
25  
26 It's there on the screen. 11:21  
27  
28 "...I was reduced to indoor duty and confined to desk  
29 bound duties in the public office, carrying out,

1 therefore, the most stressful job in the station, in  
2 circumstances where it was known to management I was  
3 suffering from work related stress. Thus, on 22nd  
4 October 2015, Superintendent Pat Murray simply, with  
5 immediate effect, reduced me to indoor duties. There 11:21  
6 was no analysis or right of representation. He said  
7 that he will review the matter again on 1st November  
8 2015. He never did."

9  
10 Now, I think you elaborated on that in your statement 11:22  
11 to the investigators. Perhaps we should look at that,  
12 page 68 and 69 of your interview. You say there, in  
13 answer there, commencing on line 976:

14  
15 "A. It was up in the superintendent's office. 11:22  
16 Sergeant Monaghan said to me on the 22/10/2015 that  
17 Superintendent Murray was looking to speak with me.  
18 There was nobody else present. Superintendent Murray  
19 said he was putting me on as permanent on the public  
20 office and he appeared to be using my sick record as a 11:22  
21 reason. At that time they (Garda management) were  
22 initially recording me out sick with the flu, while in  
23 fact I was out on intermittent work related stress. It  
24 is my belief that they put me into the most stressful  
25 position within the Garda station, which is the public 11:23  
26 office. I suspect the real reason I was put on indoor  
27 duties at that time was it was just after Garda A had  
28 been suspended and he was the subject of my complaint  
29 in October 2015. It was a message for everyone in the

1 station (a circular was issued to every sergeant in the  
2 district by Superintendent Murphy)..."

3  
4 And you refer to the page.

5  
6 "...so that every other guard could see they were  
7 making an example of me. Everyone in the station that  
8 I was desk bound and I believe that was a message for  
9 everyone. That's my belief."

10  
11 A. That is my belief.

12 72 Q. You were then asked whether the issue of work related  
13 stress was raised or discussed at that meeting on the  
14 22nd. At line 997 you say:

15  
16 "A. No, there was no mention of me suffering work  
17 related stress at this meeting but it would have been  
18 dealt with at a previous meeting. At a previous  
19 meeting Superintendent Murray said to me, you're under  
20 no stress, as referred to in my statement."

21  
22 You were asked then, going to page 70, whether you were  
23 informed of the reasons, etcetera and you answer at  
24 line 1004:

25  
26 "No. He never gave me specific reasons.  
27 Superintendent Murray mentioned it was in relation to  
28 my sick record but he did not give me any specific  
29 reason for putting me on indoor duties. He said he was



1 going to have a case conference in relation to my sick  
2 record also. My view is that the real reason for me  
3 being put on indoor duties, if you look at the timing,  
4 was because Garda A had been suspended. That is why I  
5 was put on indoor duties in my view. It was a message 11:24  
6 or other guards in the station as well. That's my  
7 belief."

8  
9 Is there anything else you want to add to that yourself  
10 at this point? 11:25

11 A. Yes, one thing, it caught my eye yesterday. It fits  
12 into this. You see, this is shortly after Garda A is  
13 suspended. Now, I had been working along pretty much,  
14 not constantly but pretty much on the same shift as  
15 Garda A for 18 months at this stage, which is very 11:25  
16 difficult. That's putting it mildly. So Garda A is  
17 suspended. But if you can just -- something that  
18 caught my eye on page 220, which is related to this, if  
19 it could be -- I can just point it out.

20 73 Q. Yes. 11:25

21 A. Page 2220.

22 74 Q. Middle paragraph.

23

24 "Brought up his whistleblower. . . ."

25

26 This is to do with -- oh this is to do with the phone  
27 call

28 75 Q. Yes.

29 A. The phone call we referred to yesterday. 11:26

1 76 Q. Yes.

2 A. It's the only phone call between myself and  
3 Superintendent Murray.

4

5 "Brought up his whistleblower case and says he's  
6 worried about Garda A and (blank), that they will get  
7 him. Has no answer when challenged."

11:26

8

9 Just on that part there, the Garda A and (blank)  
10 informed Superintendent Murray

11:26

11 77 Q. Yes.

12 A. When I am put as permanent PO, Garda A is just gone.  
13 Like, as I said, I'm working 18 months like there in  
14 the station, with him, with Garda A. But

15 Superintendent Murray, around the same time he puts me  
16 as permanent PO, he puts the garda that's marked blank

11:27

17 onto the same shift as me. There's five units on the  
18 station, as we already confirmed, A, B, C and D. I'm  
19 attached to unit C at the time. And puts that other

20 guard, he didn't put him on A, B, D or E, he puts him  
21 on unit C, on the same unit as I have already pointed

11:27

22 out, you know, I have clearly pointed out what I have  
23 said in relation to that paragraph. So Superintendent  
24 Murray was fully aware that the guard that is in that  
25 part blank, that I have concerns about that guard.

11:28

26 Superintendent Murray puts him on to my unit. Garda A  
27 is gone at this stage, so he puts that guard on to my  
28 unit. Then, of course, I am permanent PO, like public  
29 officer. I twigged that yesterday when it popped up on

1 the screen. Actually I had forgotten all about it,  
2 because there's a lot of stuff in all this.

3 78 Q. But you never complained about that before obviously?  
4 A. Correct, yeah.

5 79 Q. And as I understand it -- 11:28  
6 A. I know.

7 80 Q. -- any guard on the unit would be out, whereas under  
8 this new direction, you were going to be in the public  
9 office rather than out on a unit, is that not right?

10 A. Yeah. But every guard that is coming on duty at some 11:28  
11 point is going in and out of the public office. I mean  
12 it's where you sign on and sign off.

13 81 Q. Yes. But one aspect of the direction that you are  
14 complaining about is that you were being put on duty  
15 here while you were suffering from work related stress. 11:29  
16 But these were days when you were fit for duty. When  
17 you were being certified off, you were being certified  
18 on the basis of work related stress by your doctor.  
19 But you're not suggesting Superintendent Murray was  
20 scheduling you for duty on days that you had been 11:29  
21 certified for work related stress?

22 A. I'm sorry? In relation to being a permanent public  
23 officer?

24 82 Q. Yes. The way you put it in your statement was that it  
25 was the most stressful job in the station? 11:29  
26 A. Yes.

27 83 Q. In circumstances where it was known to management that  
28 you were suffering from work related stress?  
29 A. Yes.

1 84 Q. But the certification for work related stress related  
2 to days that you were out sick from duty, isn't that  
3 right?

4 A. Yes. But I am under constant work related stress for  
5 -- this is, what -- for the last -- I mean, since -- I 11:30  
6 mean, even prior to making a protected disclosure I  
7 made back in 2014, which is not part of this module,  
8 but I am under constant serious work related stress all  
9 through, all throughout this.

10 85 Q. We will obviously come to what happened in relation to 11:30  
11 the suspension of Garda A in terms of the management of  
12 it. I alluded to it yesterday. Superintendent Murray  
13 had received a report from a guard relating to  
14 suspicions which seemed to, on their face, increase the  
15 level of concern in relation to perhaps whether Garda A 11:31  
16 should be on duty. They were acted upon and he was  
17 suspended on the 15th, including on the basis of a  
18 report from Superintendent Murray, isn't that right?

19 A. That's correct. Just to clarify one point, and I don't  
20 want to sound cheeky on this. 11:31

21 86 Q. Yes.

22 A. But I just want to get a point across.

23 87 Q. Yes.

24 A. In one of the documents behind me, it refers to Garda A  
25 suspended in that, but I don't recall reading any 11:31  
26 document there that says what specifically Garda A was  
27 suspended for. I have said on the first day giving  
28 evidence that I do believe there is a report that  
29 should be in there.

1 88 Q. Yes.

2 A. Garda A is suspended but nobody knows what Garda A is  
3 suspended for. I don't think it's in anything  
4 there.

5 89 Q. I think you are actually wrong about that. 11:31

6 A. Okay.

7 90 Q. We will come to that in due course. In the previous  
8 year, had you been approached for a consent to the  
9 disclosure of your protected disclosures, for local  
10 management, so they could discuss the issue of 11:32  
11 suspension back in 2014? Do you remember being  
12 approached to consent to a disclosure statement?

13 A. Oh yes, by detective superintendent Mulcahy.

14 91 Q. Yes.

15 A. To the head of HR, who was Assistant Commissioner 11:32  
16 Fanning at the time, I think.

17 92 Q. Yes.

18 A. Yes.

19 93 Q. In the summer of 2014?

20 A. That would be right. 11:32

21 94 Q. I think you refused to consent?

22 A. Yes. Just to clarify.

23 95 Q. Yes.

24 A. When I made my protected disclosure originally, I knew  
25 nothing about -- I didn't know, I suppose, really 11:32  
26 anything about senior management. I might have known  
27 the name of my own chief, super, own chief. I would  
28 say that's all through my career, I wouldn't have even  
29 known the names of assistant commissioners or anything

1           like that. I didn't know, it was just that this was to  
2           go to HR, I didn't know who Assistant Commissioner  
3           Fanning or anything like that was. I knew nothing  
4           about them. Because I knew nothing about them, I  
5           obviously would be mistrustful of Garda management. I 11:33  
6           didn't want the statement to go to HR. In hindsight,  
7           of course, you know, what I am later to know as things  
8           go on, of course I made a huge mistake there. But at  
9           the time, what you have said is correct, yes.

10   96   Q.    Yes. You may not have known it, but there was, in 11:33  
11           fact, a sort of conference of all the stakeholders at  
12           that time to address the issue as to whether a  
13           suspension was either justified or appropriate at that  
14           point in time?

15           A.    Yeah. Now just to clarify, I recall Detective 11:33  
16           Superintendent Mulcahy saying to me, will you consent  
17           to give your statement to HR, and I wouldn't. But I  
18           don't recall him saying the issue of suspension hinges  
19           on this. I don't remember that. I don't think that  
20           was explained properly to me, that. Perhaps he thought 11:34  
21           I knew that it has to -- the suspension -- I didn't  
22           know that the suspension hinged on the statement going  
23           to HR. I didn't know again at the time. I was less  
24           knowledgeable than I would be now.

25   97   Q.    Okay. 11:34  
26           A.    Yeah.

27   98   Q.    We will come back to it in a different context, but you  
28           had, in fact, been agitating, and I use that is a  
29           neutral way, because it was something you wanted to

1 have achieved, the suspension of Garda A at that point  
2 in time?

3 A. I think that's wrong, I had achieved is not fair  
4 wording.

5 99 Q. Well, consideration. You wanted more active 11:35  
6 consideration to be given to it at that earlier point  
7 in time?

8 A. Yes. In relation to the suspension, you see, there's a  
9 huge issue in that when statements were taken, Garda A  
10 was present, you know, in the station while the 11:35  
11 investigation team were taking the statements, you  
12 know. He was able to see every guard that was making  
13 statements, it was insane. I had given enough evidence  
14 back in 2014, where there was enough evidence to make a  
15 suspension and a start. As I said, I didn't realise it 11:35  
16 hinged on my statement going to HR. I didn't know  
17 that.

18 100 Q. Okay. Well, I am just coming round to ask you about  
19 your assertion here that we have looked at, that, in  
20 fact, you were put in a more stressful and the most 11:36  
21 stressful job in the station, where in the  
22 circumstances Garda A was now off the pitch, if I can  
23 use that colloquialism. Would that not have, in fact,  
24 tended to perhaps alleviate the ongoing concerns that  
25 you have recorded in your diary and were talking about? 11:36

26 A. That's what I thought. When I got the word that Garda  
27 A had been suspended, I thought, right, they'll back  
28 off from me now and things will get better and, you  
29 know, they'll just leave me alone now. But, of course,

1 that's not what happens. I then get station bound into  
2 the public office. I got station bound into the public  
3 office. As I said, then there is Garda A's friend,  
4 let's say, is moved on to my unit. So it's a double  
5 whammy. 11:37

6 101 Q. He was always on duty as well, in Athlone too, that  
7 other guard?

8 A. Yes.

9 102 Q. You had never raised any concern about him either?

10 A. I am only after reading now where I had raised concern. 11:37  
11 That's why I referred to page 2220, which I spotted  
12 yesterday.

13 103 Q. But I have to obviously draw to your attention  
14 Superintendent Murray's account of the meeting he had  
15 on the 22nd October with you. It's at page 2046 of our 11:37  
16 papers. It's the bottom half of that page. You see  
17 the reference to PM39 and then it starts:

18

19 "I met Garda Keogh again in my office in relation to  
20 this matter on the 22nd October 2015 to serve a form 11:37  
21 IA14 on him at the request of chief superintendent,  
22 Westmeath. I noticed that Garda Keogh had deteriorated  
23 in that he didn't seem well to me."

24

25 Do you agree with that? 11:38

26 A. You see, I can't agree with Superintendent Murray's  
27 notes, in that some parts are true, some parts are half  
28 truth and other parts are false.

29 104 Q. We will go through this and then we will look at his



1 notes. But were you well at that point in time  
2 yourself?

3 A. Oh in general, I was under serious stress. I mean,  
4 again, I was just -- we're in October now, Garda A is  
5 suspended, you know, there are people in the station as 11:38  
6 well that think I made everything up, you know, it is a  
7 difficult time.

8 105 Q. No, I understand that. I understand that. But he  
9 said:

10  
11 "I asked him about his health and his drinking and he  
12 wouldn't answer."  
13

14 Is that right?

15 A. That would be correct. 11:39

16 106 Q. Okay.

17  
18 "I noticed his hand shaking a lot, to the degree that  
19 he could barely sign his name while acknowledging  
20 receipt of form A114." 11:39

21

22 A. That's very interesting, because nobody else makes  
23 that -- people, let's say, I'm regularly working with  
24 or whatever don't make that allegation. What's  
25 interesting is, like, why would you put the person who 11:39  
26 has the shakiest hands in the station at the public  
27 counter, that's signing all the passports and  
28 everything else for the public. Like it makes no  
29 common sense to do that.

1 CHAIRMAN: well, he might be hoping that you wouldn't  
2 be, that the person's hands wouldn't be shaking. He  
3 might be hoping that the reasons why they were shaking  
4 would have been removed.

5 A. You see, as I said -- 11:39

6 107 Q. CHAIRMAN: Do you what I mean?

7 A. -- I can't say my hands --

8 108 Q. CHAIRMAN: I don't know whether that's right or wrong?

9 A. As I said, if anyone else said -- if certain other  
10 persons said that, I would probably have said, fair 11:40  
11 enough or that. But with Superintendent Murray,  
12 there's so much, let's say, stuff that I cannot agree  
13 with in his notes, that I just have difficulty with  
14 that.

15 109 Q. CHAIRMAN: Okay. 11:40

16 A. Then, as I said, to put that person in pull public view  
17 and everything, if this is the case, why would you do  
18 that?

19 110 Q. MR. McGUI NNESS: well, he says: 11:40

20  
21 "I discussed with him his frequent sickness absence and  
22 his impact on his ability to follow up on work related  
23 matters."  
24

25 Did he do that? 11:40

26 A. Sorry, just...

27 111 Q. It's after the reference to the form A114?

28 A. I will just glance at my own notes. It's very short.

29 112 Q. Yes.

1 A. Yes, he spoke to me about sick leave, yeah.

2 113 Q.

3 "I explained that I had discussed the lack of progress  
4 and some matters involving Garda Keogh with Sergeant  
5 Monaghan while going through his incident list at a PAF 11:41  
6 meeting with Sergeant Monaghan on 19th October 2015.  
7 Garda Keogh didn't seem with it to me and I asked him  
8 if he felt fit enough to be in work."  
9

10 Do you recall that? 11:41

11 A. I don't recall that.

12 114 Q.

13 "He said he did."  
14

15 A. I can tell you for a fact that "he said he did", I not 11:41  
16 alone have a note of it -- oh sorry, sorry. Excuse me,  
17 sorry. I am not sure just about that but I do recall  
18 in that meeting, I didn't even look at Superintendent  
19 Murray. So I don't know even -- I remember just  
20 looking out the window while he was talking away, he 11:41  
21 obviously has his own notes and a version of the  
22 conversation. I wasn't very chatty to him.

23 115 Q. Yes. On this point, did you say that you were fit to  
24 do the job?

25 A. I just can't recall on that. 11:41

26 116 Q. Just in terms of what you are describing about your  
27 demeanour in the meeting, were you sort of not  
28 bothering to pay attention to what he was saying?

29 A. Oh no, it's not that I wasn't bothered. Like, I had

1 stated fully Superintendent Murray's agenda. So, I  
2 mean, to put it mildly, he's not in my circle of trust.

3 117 Q. Okay.

4  
5 "As a result of what I saw, I explained to him that I 11:42  
6 would have to assign him to indoor duty. I discussed  
7 that with him, explaining the reasons why and referring  
8 to our conversation of the 30th August, where we had  
9 discussed the possibility of this happening."

10  
11 we looked at that note, I think, yesterday. Did he 11:42  
12 make reference to that?

13 A. Sorry, where is that?

14 118 Q. It's five lines up from the bottom there.

15 A. He did, he said he was assigning me, putting me on 11:42  
16 indoor duty. He said that. "Explained the reasons", I  
17 am not sure about that. "Possibility of this  
18 happening", that part I think is true. Oh:

19  
20 "He appeared to me to agree with the course of 11:43  
21 action..."

22  
23 I don't know how he could have... just:

24  
25 "He appeared to me to agree with the course of action I 11:43  
26 was taking".

27  
28 Like I would have been just looking out the window.  
29 119 Q. Well, he's not purporting to say that you said, yes,

1           that's fine, but he's saying you seemed to be taking  
2           it. I mean, did you raise any issue with it, from your  
3           side?

4           A. From my recollection again, I don't think I spoke  
5           really at all at that meeting. I think I just sat           11:43  
6           down, looked out the window and that was it.

7   120   Q. You neither expressly agreed or disagreed?

8           A. Yes.

9   121   Q. Okay. So that might have conveyed to him that you were  
10          going along with it, as it were?           11:44

11          A. I suppose anyone could interpret it in any different  
12          way.

13   122   Q. All right. It's just in your complaint, you seem to be  
14          sort of implying that you should have been given a  
15          hearing or charges or some right of representation in           11:44  
16          relation to the matter. I mean, you're not suggesting  
17          that he should have indulged in any greater degree of  
18          formality of procedure, or are you?

19          A. Oh, my view is that he put me, as I said, in the public  
20          office, it is the most stressful job in the station,           11:44  
21          there's no question, you're answering the phones,,  
22          you're dealing with the prisoners and dealing with all  
23          the members of the public that are coming in. It is by  
24          far the most stressful job in the station, and equally,  
25          for me, after all we have gone through yesterday, it's           11:45  
26          the place where you're most likely to get landed with  
27          complaints and things like that from members of the  
28          public. At that stage, of course, any interactions I  
29          am having with the public or investigations or anything

1 that's reported to me is scrutinised to such a level  
2 that, you know, I know my career is pretty much  
3 finished once I am put PO, because essentially I am  
4 trapped there. You know, I'm a sitting duck in that  
5 position, because there's going to be people coming in 11:45  
6 reporting stuff to me and, you know, I am going to be  
7 under intense scrutiny of anything that's reported to  
8 me. So that's -- I think, we at the end of October.  
9 There's November. So yeah, I am on the way, let's say,  
10 I think I have two months left in my career. 11:46

11 123 Q. Well, that's as it turned out, of course, you went  
12 permanently?

13 A. Yes.

14 124 Q. On work related stress.

15 A. Yes. 11:46

16 125 Q. We will come to that in the next issue. His note at  
17 page 2256 effectively reflects what I put in the  
18 paragraph there to you, except the last three lines  
19 aren't included. He has you recorded there as saying  
20 okay. 11:46

21

22 "He said okay."

23

24 Do you see the third last line? You don't recollect  
25 saying okay? 11:46

26 A. I don't, but I may have said okay. I may have said  
27 that. I just can't dispute whether I said okay or not.

28 126 Q. He has this in the note, it's not in the later  
29 statement. Nothing probably turns on that:

1  
2  
3  
4  
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29

"I asked him if suspension of Garda A would allow him come to work more, as he used Garda A's presence up to now as an excuse for going sick. He made no answer."

11:47

was there any discussion about that, what had happened the week before?

A. I just don't recall that. But again, I can't dispute it. I just can't recall that part.

127 Q. Okay. The document that he presented to you for signature is at page 2259, perhaps we might just look at that. Your signature appears to be down there at the bottom of the page.

11:47

A. That's my normal signature. There's nothing wrong with that. That is my normal signature, so I don't see anything wrong with that.

11:47

128 Q. His report up to the chief super is at page 2260, which sort of briefly describes what he says happened there. Then the instruction that he gave is at 2261, this is in your own set of papers as well.

11:48

A. Just on the signature, if you wish to compare it with any other signature, I have no objection to that. That signature is perfectly fine.

129 Q. I am not going to turn myself into a witness or offer a view one way or another?

11:48

A. Right, sorry.

130 Q. We don't want to start down that course.

131 Q. CHAIRMAN: No, but you say that if it was as bad as is recorded, there should be some obvious differences.

1 A. Yes.

2 132 Q. CHAIRMAN: That's what you say.

3 A. Yes. I don't see any --

4 133 Q. CHAIRMAN: I mean, it's not a question of a handwriting  
5 expert, but you say it should be obvious? 11:48

6 A. He definitely didn't say anything to me, like, oh your  
7 hand's shaking or anything like that. I know he didn't  
8 say that but I read it in other stuff.

9 CHAIRMAN: Okay.

10 134 Q. MR. McGUINESS: You're saying it wasn't reviewed, to 11:49  
11 your knowledge anyway, there was sort of a note there  
12 that it would be reviewed by the 1st November?

13 A. Yes.

14 135 Q. You weren't aware of any review?

15 A. I wasn't aware, but I have since read in documents that 11:49  
16 there was a review. I certainly want informed, from my  
17 recollection, about being reviewed.

18 136 Q. Yes.

19 A. Sorry, I'm aware he said it will be reviewed, just for  
20 clarification, but I wasn't aware of anything after 11:49  
21 that, whether the matter was reviewed or not.

22 137 Q. Yes. That issue then, you consider that targeting  
23 obviously, is that right?

24 A. Yes, yes.

25 138 Q. On what basis did you consider it targeting? 11:50

26 A. Because for me, Garda A is suspended and it appears  
27 that Garda management are now going to -- as I stated,  
28 I thought, great, they'll be off my back now, I'll be  
29 able to go in and they'll just leave me alone and I



1 will be able to get back, you know, working and  
2 whatever and things might get better. But when Garda A  
3 is suspended, they don't do that. In fact, it's like  
4 as if -- the way I perceived it is, we are not going to  
5 allow this so-called whistleblower to be winning, is 11:50  
6 the way I think they viewed it. That they were not  
7 going to allow this guy to be seen as he is winning.  
8 Therefore, we are in charge and we're going to show  
9 we're in charge, you know, and therefore we're putting  
10 this guy in the public office. It's circulated to 11:51  
11 everybody else around the place that the whistleblower  
12 is going in to the public office. I think that's --  
13 now I may have that wrong but that's my belief.

14 139 Q. Okay. I mean in the ordinary events, if people are  
15 changing units, you expect to see a circular saying 11:51  
16 that Garda X is now being assigned to this, and  
17 everybody be made aware of it?

18 A. Yes.

19 140 Q. There's nothing in the circular itself. It's the  
20 decision that you're complaining about. I don't know 11:51  
21 if you noticed it in Inspector Minnock's, as he was at  
22 the time. He said that:

23

24 "Pat Murray was trying to ensure high standards which  
25 gave confidence to public in policing and that the 11:51  
26 rationale for this decision appeared unrelated to other  
27 matters."

28

29 A. I don't agree with that. Again, I could be wrong but

1 in relation to what was circulated about me going on to  
2 indoor duties, that just refers to me. I think around  
3 that time other members were moved units. They may  
4 have been on another sheet of paper. It was very clear  
5 what was circulated about me was me alone, what is 11:52  
6 circulated on indoor duties.

7 141 Q. It would appear that Inspector Minnock, in the papers  
8 that were sent to Mr. de Bruir, said that he thought  
9 this was done in your best interest, to confine you to  
10 indoor duties. You don't agree with that point? 11:52

11 A. I absolutely would reject that. Absolutely.

12 142 Q. CHAIRMAN: Can I clarify something?

13 A. Yes.

14 143 Q. CHAIRMAN: As I understand your point, your point, as I  
15 understand it, is: If I was in the condition that 11:52  
16 Superintendent Murray was talking about, then it was  
17 inappropriate, trying to use as neutral a word as  
18 possible, to put such a person as the station officer?

19 A. Yes.

20 144 Q. CHAIRMAN: Because it's visible, highly visible, people 11:53  
21 coming in and out, there's a lot of things about -- we  
22 would things about arrests and everything else and so  
23 on, presumably.

24 A. Of course.

25 145 Q. CHAIRMAN: would you have to do those things? 11:53

26 A. Custody records, I would have been the one dealing with  
27 all the custody records. I mean, even for the purpose  
28 of evidence in court, where custody records are written  
29 and all the rest, why would you put the person that --

1 146 Q. CHAIRMAN: Somebody being arrested would have to go to  
2 the -- are you the officer in charge in the station, is  
3 that the position?  
4 A. I would have been over prisoners that would have come  
5 in, in that period. 11:54  
6 147 Q. CHAIRMAN: An arresting guard would have to have you  
7 endorse the decision to keep the person in custody, is  
8 that right?  
9 A. And detention, Section 4 detentions and all that.  
10 148 Q. CHAIRMAN: That's what I am thinking of? 11:54  
11 A. There would be a lot of legal stuff there. And again,  
12 like, I mean, if I was in that condition --  
13 149 Q. CHAIRMAN: Just let me follow for a second. You are  
14 saying, if I was in that condition, if a person was in  
15 that condition, it would not be a sensible thing to put 11:54  
16 such a person in that position?  
17 A. Correct.  
18 150 Q. CHAIRMAN: Okay.  
19 A. Yes.  
20 151 Q. CHAIRMAN: You're not saying that that position is 11:54  
21 necessarily a kind of punishment job? I mean, there  
22 must be somebody on duty in the station. Your point  
23 is, if you were in the condition as reported, is that  
24 right?  
25 A. Yes. Yes. But on the other bit, the first matter you 11:54  
26 brought up, usually the way it is done is, let's say  
27 there's eight on the unit, someone would usually be  
28 landed with the public office. You might have two more  
29 in patrol cars.

1 152 Q. CHAIRMAN: It wouldn't be the most enviable job?  
2 A. Correct. The next day they would put somebody else  
3 into the public office and it would rotate again. But  
4 I am put on permanent.

5 153 Q. CHAIRMAN: It's regarded as a difficult job? 11:55  
6 A. Oh, it's by far the most difficult. By far. In every  
7 station in the country.

8 154 Q. CHAIRMAN: You also say stressful and so on?  
9 A. Yes.

10 CHAIRMAN: So there's two points. Okay, I have that. 11:55  
11 Thank you. Do you want to ask anything arising out of  
12 that, Mr. McGuinness?

13 155 Q. MR. MCGUINNESS: Just a couple of matters. Sergeant  
14 Haran in his statement said he wasn't consulted in  
15 relation to the decision. I am not sure whether 11:55  
16 (Inaudible) or not. Sergeant Sergeant Monaghan said  
17 that the general minute was circulated there and he  
18 detailed you for duty in the public office. That you  
19 took annual leave on the 9th November. But he said you  
20 didn't raise any query in relation to this direction 11:56  
21 with him.

22 A. Sorry?

23 156 Q. Sergeant Monaghan.  
24 A. Yeah. I mean, what do I raise? It's common sense  
25 what's going on. There's nothing to raise. We have 11:56  
26 heard, what we have gone through yesterday, all the  
27 paperwork would have been coming down through Sergeant  
28 Monaghan or Sergeant Haran. There's no point in me  
29 raising an issue, it's something that's so common

1 sense.

2 157 Q. Yes.

3 A. I mean in what's going on in general there, yeah.

4 158 Q. Well, Sergeant Haran has said that, you know, he was 11:56  
5 aware that you were unhappy with it and that he offered  
6 support and encouragement. He said you struggled to be  
7 on time for early shifts and talked about going on  
8 long-term leave. He tried to discourage you from doing  
9 that. But you thought this was a ploy at that stage,  
10 is that right, the confinement? 11:57

11 A. Yeah, yeah. As I previously said, once they had me in  
12 there, pretty much had me trapped in a place where I  
13 know I'm going to get nailed inevitably on something.  
14 I know that. That's inevitable. Yeah.

15 159 Q. But in your own mind then, your belief, you relate it 11:57  
16 to the protected disclosure. You think that's why it  
17 happened, is that right?

18 A. Oh sure it's all linked, like, the whole thing is all  
19 linked.

20 160 Q. Why do you say it's linked, just to be clear. Could 11:57  
21 you just, as it were, encapsulate why you say it's  
22 linked and it's targeting and discrediting?

23 A. The whole chain of everything that we've gone through  
24 so far, it's all linked. I never had any of this prior  
25 to making the protected disclosure. Nothing on -- 11:58  
26 pretty much anything we have gone through or discussed,  
27 I had nothing. Once a year, perhaps, a sergeant might  
28 pull me in and say, listen, there's something to do  
29 with a file, or there's something not right or

1           whatever, roughly. I mean roughly once a year. This  
2           is just -- what happens here, I just can't think of a  
3           word for it. It just avalanches after 2014, and, of  
4           course, into '15 and that, yeah.

5 161 Q.    Okay. There's nothing more I want to ask you about           11:58  
6           this issue. Chairman, do you want to take a break?

7           CHAIRMAN: Yes. I think that's probably a good idea.  
8           I know we started a little bit later but I think we  
9           will stick with our original. That's all very well,  
10          but Garda Keogh has been sitting here, either waiting           11:59  
11          to give evidence or giving his evidence or consulting  
12          or whatever it was. We will take a break. Just give  
13          me two minutes, two seconds. Okay. Thank you very  
14          much. We will take a break and then we will move on to  
15          the next issue. Thank you very much.                           11:59

16  
17          THE HEARING THEN ADJOURNED BRIEFLY AND RESUMED AS  
18          FOLLOWS:

19  
20 162 Q.    MR. McGUINNESS: Garda Keogh, this complaint is           12:18  
21           encapsulated in issue number 12, which is complaints in  
22           relation to the misrecording of your sick leave and the  
23           reduction in salary. You make a point, which is  
24           obviously well made in the context of your early  
25           history of absences, that you had in fact very little,           12:18  
26           in fact no absences for a very considerable period of  
27           your career through illness?

28          A.    I think 11 and a half years as a straight run, let's  
29           say, as a civil servant of the state, without taking a

1 single sick day.

2 163 Q. Perhaps if we just look at volume 38, page 10725. You  
3 have probably seen these, they're manual records in the  
4 paper disclosure?

5 A. Yeah. 12:19

6 164 Q. If we go down to the bottom there, it should start at  
7 10725. At the top there, that's year ending March '01,  
8 nil; year ending March '02; nil, the same for '03, '04.  
9 Then if we go up to the previous page, 10724, going  
10 down the page: '05 nil; '06 nil; '07 nil; Athlone three 12:20  
11 years there, '08, '09, '10, nil, nil, nil. Then if we  
12 go up to the preceding page, 10723?

13 A. Well, the year 2000 is missing, that was nil as well.

14 165 Q. Well, the first one runs from 2000 up to 2001?

15 A. Sorry. 12:21

16 166 Q. Then the first sick day is 5th October 2011. There  
17 were then eight six days between then and the end of  
18 the year. Then if we go to what is in reality a  
19 departure from the system of manual record keeping, to  
20 page 10721, where it picks it up from the tail end of 12:21  
21 2011. If we go to the bottom of the page. We may have  
22 to magnify that slightly, to make it easier to read on  
23 the screen. But it shows -- six lines up then is  
24 the -- it goes into 2012 with sick days out, which  
25 finish on the sixth line up from the bottom, an 12:22  
26 extended period there of 51 days, isn't that right?

27 A. That's, yeah.

28 167 Q. Nothing to do with the protected disclosures or stress,  
29 is that right?

1 A. Well, you see, I don't think I even tell my doctor  
2 what's going on at the time.

3 168 Q. It's probably drink related, is it, to cover it in that  
4 broad category?

5 A. Yes. Yeah, it would be. But, equally, I don't know 12:22  
6 exactly when I even tell my doctor what's going on.  
7 Because I break confidence in 2011 with a solicitor for  
8 the first time about just stuff that's going on, that's  
9 very mad, in Athlone. Yeah.

10 169 Q. In any event, we're not directly concerned with that. 12:23  
11 Going up the year then in 2012, there's another  
12 substantial chunk there of missing days obviously?

13 A. Yes.

14 170 Q. We don't need to go into that. Then there's a lot of  
15 single days. Sort of halfway up the page we get to the 12:23  
16 end of December 2013, do you see that, in the middle of  
17 the page there? The cursor is on the right-hand side  
18 of the page, indicating where it is.

19 A. Yeah.

20 171 Q. Now, in fact, all of these are in the category 12:24  
21 "illness". They're all classified as "flu viral". We  
22 will hear more from the relevant witnesses about the  
23 system and what options are open on the system. But  
24 just going into 2014 then, we see it's "flu viral"  
25 there. I am going to switch pages and come back to 12:24  
26 this one in a moment, but if we go to the same volume,  
27 at 10649, we will see a summary from your doctor which  
28 related to a specific period, really going into August  
29 and into July 2015. If we scroll down a little bit.



1 There's three sick certs there, two viral there, in  
2 August and September, and then in December '14, that's  
3 the first work related stress one. I think every cert  
4 that you produce from your doctor, Dr. Bartlett, he has  
5 been dealing with you for quite a long time, you 12:25  
6 obviously have great confidence in him.

7 A. Yes.

8 172 Q. From there to date and continuing, it's all work  
9 related stress. There is no argument about that, we  
10 don't need to look at them at all. But just back then 12:25  
11 to the page we had been on, 10721, and putting the  
12 finger on the same end of year, that is the year 13,  
13 the categorisation of it under the system, doesn't  
14 change. I mean, the viral gastroenteritis, it makes no  
15 difference to the categorisation, it would seem, at the 12:26  
16 time. The witnesses will presumably bear that out.  
17 And the fact that work related stress certificates come  
18 in, they are not resulting in any change in the system.

19 A. Yeah.

20 173 Q. They're both categorised then as an ordinary illness. 12:26  
21 Just keeping my finger, so I know where I am here, from  
22 the beginning of 2014 onwards. If we go up to a date,  
23 which is a date in 2015 there, 22/3/2015. I will just  
24 take that date there because as at the time  
25 Superintendent Murray is writing his letter of the 2nd 12:27  
26 April, following the meeting with you on the 26th March  
27 that we have seen. Do you remember that meeting of the  
28 26th March, his first meeting with you?

29 A. Mm-hmm, yes.

1 174 Q. He sends a letter that we have already looked at, in  
2 fact, up to the chief superintendent, noting that at  
3 this point in time you had 48 days of illness since  
4 January, since the beginning of January '14, up until  
5 that period of time. I have added up the days and it 12:28  
6 does seem to add up to 48. He said that in total there  
7 were 184 days lost through illness over the past four  
8 years. One can add up all the previous days, going  
9 back four years. He may have underestimated it by five  
10 days, I make it at 141 rather than 136, but whether 12:28  
11 it's the lower or the greater of those figures, it  
12 brought you over a crucial tipping point, from 183 days  
13 into 184 days. I think you understand the significance  
14 of that.

15 A. I do now, yeah. I wouldn't have had at the time 12:29  
16 because I didn't go sick. But yeah, I understand it  
17 now.

18 175 Q. I think you probably will agree, if it's a matter for  
19 argument that's fine, but under the relevant Garda  
20 finance and sickness day scheme, as it were, once you 12:29  
21 tip over 183 days and you are subsequently absent, you  
22 go onto a lower rate of remuneration called TRR?

23 A. Yes.

24 176 Q. That's the system?

25 A. It is, yeah. 12:29

26 177 Q. You got caught by that system on days that you were  
27 absence subsequent to this?

28 A. Yes.

29 178 Q. You would accept that?

1 A. Oh yeah.

2 179 Q. You would accept, therefore, that any pay related  
3 reductions directly arising from your absences were  
4 dealt with in terms of a reduction in pay on the basis  
5 of the regime in place rather than any individual 12:30  
6 decision-making that was punishing you for the  
7 absences?

8 A. Sorry, can you just rephrase that?

9 180 Q. Yes, perhaps it's slightly convoluted. I am suggesting  
10 that from that day onwards, when you were medically 12:30  
11 certified for absence, it had the automatic effect that  
12 each absence you were being paid on the reduced rate?

13 A. Yes.

14 181 Q. As a result of the system rather than anyone deciding  
15 they're going to reduce your pay. There was no 12:30  
16 individual deciding, now I'm going to get at you by  
17 reducing your pay because you are out sick. Do you  
18 take the point?

19 A. Your point, I am not sure, is your point that the  
20 computer is making a mistake? 12:30

21 182 Q. No.

22 A. I am not sure.

23 183 Q. It's nothing to do with the category. We will come to  
24 the category. I am sorry.

25 A. Right. 12:30

26 184 Q. I should have said that. My question is relating to  
27 the rate of pay?

28 A. Yeah.

29 185 Q. The amount of pay that you're getting?

1 A. Right.

2 186 Q. Is determined then by the system.

3 A. Oh yeah.

4 187 Q. Once you're over?

5 A. Yes, yes, correct. 12:31

6 188 Q. As it were, the rate of pay then isn't decided upon by  
7 any individual. I mean Super Murray had nothing to do  
8 with deciding your rate of pay?

9 A. The system, I accept, yes.

10 189 Q. All right. Or Chief Superintendent wheatley, the rate 12:31  
11 of pay?

12 A. Just on the rate of pay.

13 190 Q. That's all we are talking about at the moment.

14 A. Okay.

15 191 Q. Just looking at this now, going back up to the top, the 12:31  
16 category stays the same except for there's another one  
17 there, do you see that, 2nd June '15. I am not quite  
18 clear that would have happened, but that's a drop down  
19 option on the SAMS system. You have probably seen the  
20 screen shots which includes that as an option. It 12:32  
21 seemed to allow you to specify what the other illness  
22 was. I don't know if you agree with that?

23 A. You see, unfortunately I am not au fait with the SAMS  
24 system.

25 192 Q. Yes. 12:32

26 A. For me to explain this, I am on...

27 193 Q. I am just taking you through this overall picture and  
28 then I am going to ask you to look at the SAMS  
29 printouts?

1 A. Right.

2 194 Q. If you don't mind. It comes up then at this stage to  
3 26th December 2015, and then it says:  
4  
5 "SAMS, mental health." 12:33  
6

7 A. Yes.

8 195 Q. As I understand it, that reflects a change that was  
9 made arising from you learning at a consultation with  
10 the CMO in December 2015 -- if you just wait for the 12:33  
11 question?  
12 A. I couldn't hear you.

13 196 Q. I beg your pardon.

14 A. Just someone coughed, I missed one word, that's all.

15 197 Q. I am suggesting, that seems to represent a change in 12:33  
16 the way it was recorded as a result of you becoming  
17 aware that your illness was being put on the system as  
18 flu viral, and raising an issue because your  
19 certificates had work related stress, isn't that right?  
20 A. It was with the CMO, is when I discovered it. 12:33

21 198 Q. You discovered it?

22 A. Yes.

23 199 Q. As a result, when 2015 turned into 2016, you brought  
24 that as a concern obviously to your solicitor and the  
25 Garda authorities, in particular the new protected 12:34  
26 disclosures manager, Chief Superintendent Anthony  
27 McLoughlin?  
28 A. Yeah.

29 200 Q. You raised that directly with him?

1 A. Yes.

2 201 Q. And he said he would look at it?

3 A. He did, he did say that to me, yes.

4 202 Q. Yes. He was responsible for that change then I think,  
5 as you understand it? 12:34

6 A. He kept his word, he did look at it. Yes, he did,  
7 yeah.

8 203 Q. Correct me if I am wrong, you may or may not agree with  
9 it, but certainly it appeared to be the case that  
10 correcting it has no effect on your rate of pay, isn't 12:34  
11 that right?

12 A. When he corrected it, I then go back onto a basic wage.

13 204 Q. CHAIRMAN: It brought you back up?

14 A. Yes, it did.

15 CHAIRMAN: Isn't that right, Mr. McGuinness, the 12:35  
16 correction brought it back up?

17 MR. MCGUINNESS: It's sequential.

18 CHAIRMAN: Sorry.

19 MR. MCGUINNESS: Yes.

20 CHAIRMAN: That's what I thought. 12:35

21 205 Q. MR. MCGUINNESS: when he corrects it and it gets  
22 corrected in May as a categorisation, in fact your pay,  
23 your TRR didn't change, you were on the reduced pay.

24 A. I was on the reduced pay.

25 206 Q. Isn't that right? 12:35

26 A. Yes, I don't think it changes until October.

27 207 Q. Indeed, that's what I am coming to.

28 CHAIRMAN: Sorry.

29 208 Q. MR. MCGUINNESS: I am hoping we can agree the sequence

1 through. Because it's important. I hope, I don't want  
2 to mislead anyone. The status or classification got  
3 changed on the system from mental health in May and  
4 that didn't change your reduced rate of pay at that  
5 point in time. Your pay changed subsequently in 12:36  
6 October, when the issue of your being out on work  
7 related stress, as it affected your pay, melded  
8 together. Chief Superintendent McLoughlin, with whom  
9 you raised the issue, secured a result by enabling you  
10 to be restored to full pay, although there were public 12:36  
11 service regulations that came into effect and I am not  
12 going to say anything about whether they were  
13 applicable or how they should have operated, but he  
14 recommended that you be restored to full pay?

15 A. Yeah. 12:37

16 209 Q. Although your absences were continuing, they were  
17 exceeding the plateau by which ordinarily you would  
18 have been reduced to TRR rate, isn't that right?

19 A. Yes, that's correct.

20 210 Q. You're not subject then -- that was then backdated to 12:37  
21 this date at the top of the column there?

22 A. That's correct. He did backdate it, yes, he did. In  
23 fairness to him, he said he was going to look at it, he  
24 did. He backdated it. He did, he did everything he  
25 said he would do, yes. 12:37

26 211 Q. Yes. I think he has made a very long statement, I am  
27 not sure that I need to put any of it.

28 A. My recollection is, I couldn't find anything in his  
29 statement that I have an issue with.

1 212 Q. Yes.

2 A. Just from recollection.

3 213 Q. He has put in before the Tribunal, they're all before  
4 the Tribunal, a large number of appendices which detail  
5 his interaction with you. As you would expect, 12:38  
6 obviously a very delicate position he's in, in terms of  
7 managing the process and all the different  
8 stakeholders?

9 A. The first thing I said to him when I met him, I said,  
10 you might think it's the handiest job, but it's far -- 12:38  
11 it's probably the most difficult job in An Garda  
12 Síochána.

13 214 Q. Yes.

14 A. Yeah.

15 215 Q. He appears to have followed through on -- he made the 12:38  
16 recommendation on your behalf. I am not going to  
17 express any view as to whether it was a pragmatic one,  
18 but it was a very practical solution which executive  
19 hierarchy took on, as it were, and followed through to  
20 put you back on full pay, backdated to the 26th, which 12:38  
21 is the date you went out fully on work related stress?

22 A. Yes.

23 216 Q. I suppose the upshot, I want to suggest to you, is that  
24 you -- and the rationale appears to be that, in fact,  
25 it was because you were in this, as it were, new 12:39  
26 category of a protected disclosure and the issue  
27 appears to have been resulting in a concern, a worry  
28 that it might be seen as penalisation and that they  
29 didn't you to feel penalised. And they haven't



1 penalised you, I suppose is the upshot of my question;  
2 that you have been in fact restored to full pay on that  
3 basis?

4 A. You see, for me, the pay and that was not my focus  
5 really, it was my complaint was my focus. 12:40

6 217 Q. I'm sorry?

7 A. The complaint was the thing that would have been  
8 circulating in my mind. I would have obviously known,  
9 just from other, let's say, guards whistleblowers, pay  
10 is a thing you're going get hit on. So I had actually 12:40  
11 saved up money, I was ready for the reduced pay rate,  
12 if you know what I mean, I had saved up.

13 218 Q. I don't want to enquire into your financial --

14 A. Just one other thing as well, in October of 2015,  
15 another issue is, as I previously reported, a report, 12:40  
16 there was a report in the Sunday Times on 2nd October  
17 2015, which appeared on the front page, to do with my  
18 main complaint as well. That probably -- it was in the  
19 public domain again for a while. But that's not taking  
20 away from Chief Superintendent McLoughlin, way prior to 12:40  
21 that, he took to do what he said he would do, he was a  
22 hundred percent on that.

23 219 Q. Yes. The upshot of my last long question, preceded by  
24 lots of statements, I should have asked a shorter  
25 question, which is this: would you agree with me now 12:41  
26 that firstly the misrecording of your illness doesn't  
27 appear to have been as a result of any decision to  
28 target you, it was the operation of the system insofar  
29 as it related to a reduction in pay at the time you had

1 reduced pay?

2 A. I couldn't agree with that.

3 220 Q. Pardon.

4 A. I couldn't -- if I am taking -- if I am understanding  
5 your question correctly, I couldn't agree with that. 12:41  
6 It's as if -- now, I may have mistaken or misunderstood  
7 your question. It would be as if they didn't know that  
8 I was going out with work related stress and it was  
9 just the system kind of and it was a mistake. I  
10 wouldn't agree with that. 12:42

11 221 Q. Well, perhaps I confused you as well as maybe myself.  
12 I thought we had got to maybe a stage where you had  
13 agreed that the misrecording of it as such didn't  
14 affect your rate of pay, once you tripped over the 183?

15 A. I had gone down at some stage to 220 a week or 12:42  
16 something like that. Chief Superintendent  
17 McLoughlin -- I've already said this.

18 222 Q. Yes.

19 A. I'm sorry.

20 223 Q. CHAIRMAN: Here's the point, if I am understanding, and 12:42  
21 I am sorry to interrupt, Mr. McGuinness. If I  
22 understand: At the beginning, now I am not saying I  
23 agree with this, but here's what I think is the issue,  
24 at the beginning it doesn't seem to have mattered  
25 whether it was flu viral or work related stress for 12:43  
26 your pay. At the beginning, isn't that right?

27 A. Yes.

28 224 Q. CHAIRMAN: For whatever reason, whether somebody did it  
29 deliberately, accidentally or for benign or malevolent

1 motives, it didn't make any difference to your pay  
2 until you reached the threshold whereby your pay  
3 dropped?

4 A. Yes. There are two categories on the SAMS system for  
5 recording. 12:43

6 225 Q. CHAIRMAN: Yes.

7 A. And one is -- there is a category --

8 226 Q. CHAIRMAN: Let's keep it simple for a moment?

9 A. Okay.

10 227 Q. CHAIRMAN: Before we get to categories, let's keep it 12:43  
11 very simple. Up to the point -- I'm sorry, I just want  
12 to get it absolutely clear. Up to the point where you  
13 met the threshold, it didn't matter, it didn't matter  
14 what it was called. But the question seems to have  
15 been that at a certain point it was considered, this 12:44  
16 isn't just ordinary illness, which would get my pay  
17 reduced, this is work related, which, in fairness, may  
18 be in law as well, but anyway, it shouldn't affect my  
19 work because it happened due to work. It's not just  
20 that I was, you know, suffering from something that 12:44  
21 unfortunately hit me, if that was the case I would get  
22 reduced but in this case ultimately it seems to have  
23 been recognised. Is that essentially the position?

24 A. Yes. Yes. I think that's -- I think.

25 228 Q. CHAIRMAN: Now, what we are on go and what 12:44  
26 Mr. McGuinness is enquiring about, if I understand, is  
27 that at the beginning, whether somebody wrote down flu  
28 viral or whatever else they wrote, didn't actually make  
29 any difference. There came a point when it did make a

1 difference, but until it got to that point, it didn't  
2 matter what it said?

3 A. I think so, yeah

4 CHAIRMAN: A sore neck, you know, bad back, whatever it  
5 was, it didn't matter. Am I understanding you 12:45  
6 correctly, Mr. McGuinness? Have I got it halfway right  
7 or am I correct so far?

8 MR. MCGUINNESS: well, Chairman, I think the issue is  
9 as follows, which I hope is correct: Once something is  
10 recorded on the ordinary illness category, whether it's 12:45  
11 described as anything, it makes no difference at all.  
12 But the only way it becomes an issue for a member is  
13 that once you go over 183 days.

14 CHAIRMAN: You're reduced.

15 MR. MCGUINNESS: You're reduced. But that doesn't have 12:45  
16 a categorisation of --

17 CHAIRMAN: No, it doesn't matter what it's called, sore  
18 neck, bad back, headaches, it doesn't matter.

19 MR. MCGUINNESS: It's based upon the categorisation of  
20 it as an ordinary illness. 12:46  
21 CHAIRMAN: Right.

22 MR. MCGUINNESS: The fact that it was being put on the  
23 SAMS system as flu viral under ordinary illness, meant  
24 that once he tripped over the 183 day, the reduction  
25 came in as a result of the system. And the same 12:46  
26 reduction --

27 CHAIRMAN: And Garda Keogh, as I understand, agrees.

28 MR. MCGUINNESS: Pardon?

29 CHAIRMAN: Garda Keogh agrees that, indeed, it operates

1 automatically on the computer, assuming it is one of  
2 those ordinary things.

3 MR. McGUI NNESS: Yes. And the same reduction applies  
4 whether if the classification is changed from flu viral  
5 to work related stress, as long as it's obviously 12:46  
6 entered under the category of ordinary illness. So his  
7 pay, as I understand it, wasn't changed as a result of  
8 the reclassification in May, but the events that then  
9 overtook that.

10 CHAIRMAN: were Chief Superintendent McLoughlin's. 12:47

11 MR. McGUI NNESS: were Chief Superintendent McLoughlin.

12 229 Q. CHAIRMAN: Okay. That's the issue then. We're agreed  
13 so up to this point, the automatic we're agreed on. As  
14 I understand, and Mr. McGuinness has now very helpfully  
15 clarified it, that it didn't matter whether it was work 12:47  
16 related stress, if that had been written down all along  
17 from the beginning, your pay would still have been  
18 reduced. That's what he's saying. I don't know  
19 whether you agree. Now, do you agree with that or not  
20 agree with it? Obviously that can be explored with 12:47  
21 other witnesses and so on.

22 A. In work related stress, under the garda regulations as  
23 I understand it, they're supposed to mount an  
24 investigation to see if there is work related stress  
25 and if tere was, then they class it as injury on duty. 12:47  
26 CHAIRMAN: That's what I thought.

27 230 Q. MR. McGUI NNESS: I was going to come to that, because  
28 you did make a complaint in your statements that that  
29 was something that should have been done. I am going

1 to come on to that. What I am going to suggest to you  
2 on this, the categorisation of it in May 2015 as mental  
3 health, it didn't effect the operation of the system,  
4 reducing it to TRR, because it was still categorised as  
5 an ordinary illness? 12:48

6 A. As I did say at the very start, I'm not au fait with  
7 the SAMS system. So this is something that -- forgive  
8 me if I am stumbling on that.

9 231 Q. Not at all.

10 A. Yeah. 12:48

11 232 Q. We're going to hear, we hope, from the experts in  
12 charge of the system too.

13 233 Q. CHAIRMAN: Do I understand that your essential  
14 complaint is this: That the authorities put you down  
15 as flu viral when they should have been putting you  
16 down as an injury at work? 12:49

17 A. Work related, yes.

18 234 Q. CHAIRMAN: In a sense, I know it's work related stress.

19 A. Yes.

20 235 Q. CHAIRMAN: But they should have been saying, it's not  
21 an ordinary thing that he just got, this is something  
22 that happened to him at work? 12:49

23 A. Yes.

24 236 Q. CHAIRMAN: Don't worry about the details for the  
25 moment, but that's essentially your complaint? 12:49

26 A. You see, what they should have done is --

27 237 Q. CHAIRMAN: No, leave aside what they should have done?

28 A. Yes.

29 238 Q. CHAIRMAN: Just to get a clear, I am sorry, but just to

1 get it clear. For the simple person like myself, I  
2 just want to get this clear. They should have alerted  
3 themselves, they should have realised and written down  
4 work related?

5 A. Yes. 12:49

6 239 Q. CHAIRMAN: Okay. The time when this hit in to you was  
7 when you reached the threshold. It didn't matter up to  
8 a certain point what it was, but at a certain point, if  
9 it had been put down as work related, whatever  
10 processes would have taken place, you wouldn't have 12:49  
11 automatically dropped in salary, is that right? You  
12 say they should have done it, they targeted me,  
13 victimised me or prejudiced me by putting down the  
14 wrong thing?

15 A. Yes, yes. 12:50

16 240 Q. CHAIRMAN: In a word?

17 A. Yes. My thing is they knew it was work related stress  
18 on my sick certs.

19 241 Q. CHAIRMAN: Yes, they put down the wrong thing. They  
20 knowingly, you say, put down the wrong thing with the 12:50  
21 result that ultimately, after half a year or whenever  
22 it was, it came to bite you?

23 A. I suppose my point would be, if I can be of help, I  
24 think what you're trying to say, there may have been a  
25 mistake with the computer carrying -- that would be 12:50  
26 acceptable for, let's say, a period of time or that,  
27 but I think this goes on for over a year.

28 242 Q. CHAIRMAN: I am sorry, I hope I haven't muddied the  
29 waters, confused everything. That's my understanding

1 for what it's worth and you may as well know it, my  
2 understanding is that your complaint is, the  
3 authorities wrote down a wrong thing?  
4 A. Yes.  
5 243 Q. CHAIRMAN: They did it knowingly. 12:51  
6 A. Yes.  
7 244 Q. CHAIRMAN: And it didn't come to hit you until such  
8 time as the normal process of the computer realised.  
9 A. Yes.  
10 245 Q. CHAIRMAN: Okay. Had they put down the right thing, 12:51  
11 whatever else might have happened, it wouldn't have  
12 resulted in that. Is that the essence of it?  
13 A. Yes. I think I am on the same page.  
14 246 Q. CHAIRMAN: I think I am understanding that?  
15 A. Judge, as I said, this is not a (Inaudible) of mine, as 12:51  
16 in the SAMS system and that. Like, when I meet the  
17 CMO.  
18 247 Q. CHAIRMAN: Yes.  
19 A. That's where I find out what they're up to. But they  
20 have already held a case conference to do with me with 12:51  
21 the CMO. But he himself is not aware of work related  
22 stress. The Garda CMO is not aware of work related  
23 stress.  
24 CHAIRMAN: I am understanding that. Okay. Now, I am  
25 sorry, Mr. McGuinness. Well, I'm not that sorry but I 12:52  
26 may as well explain to you what I'm thinking.  
27 MR. MCGUINNESS: Thank you, Chairman.  
28 CHAIRMAN: I hope that's helpful, I'm not certain.  
29 248 Q. MR. MCGUINNESS: Thank you, Chairman. It's always



1 useful to know. Just going back to that meeting with  
2 the CMO. I mean, the CMO doesn't get the certs and  
3 classify you on the basis of certs from your doctor. I  
4 think you know that.

5 A. I didn't know that. 12:52

6 249 Q. Yes.

7 A. There were already case conferences in relation to me  
8 and my sickness. Somebody forgot to inform the CMO  
9 that I was going sick with work related stress.  
10 Because I meet him after these cases conference and he 12:52  
11 seems to have no idea about work related stress  
12 whatsoever and they've held case conferences to do with  
13 my sick. When I met him, he still seems to be in the  
14 dark. He doesn't know anything about work related  
15 stress. So they have held case conferences to do with 12:53  
16 my sick records and absences and they don't inform the  
17 CMO anything about work related stress.

18 250 Q. We are going to hear from the parties who were at the  
19 meeting, but the purpose of the meeting wasn't to  
20 review your classification or, as I understand it, to 12:53  
21 look at the issue of how your pay would be dealt with,  
22 whether it was classified one way or another. So we  
23 will come to that in a due course.

24 A. But one would imagine someone would have to inform the  
25 CMO, if they are discussing sick, what's on the sick 12:53  
26 certs he's going sick with.

27 251 Q. What I wanted to ask you to look at is these screen  
28 shots of the SAMS system, the sickness absent  
29 management system. They're at volume 42, page 11789 to

1 11794. If we start at the first one. My understanding  
2 is that these are in sequence and what you see is  
3 options when you click on the ordinary illness  
4 categories. So the screen comes up, you are being  
5 asked to categorise it and you can choose these 12:54  
6 options, four different options. Then, if you choose  
7 the ordinary illness category, which is the one  
8 selected in the box there on the top, it gives you four  
9 options, if you turn the page then, if we go on to the  
10 next page? 12:55

11 A. Just, I see there is another category there, just if  
12 you go back up, you will see, if you go onto the  
13 ordinary illness, you see at the top, if one is to  
14 click on the occupation injury, what categories --  
15 CHAIRMAN: No, follow him for the moment. 12:55  
16 Mr. McGuinness says, assume, he has highlighted one --  
17 we will do it slowly. He has highlighted one, now here  
18 are the options under ordinary injury. He is not  
19 forgetting the other point.

20 MR. McGUI NNESS: This is presented to us on a 12:55  
21 step-by-step basis, what happens when you choose each  
22 or other of them.

23 CHAIRMAN: This is ordinary illness category now.

24 MR. McGUI NNESS: when you select the ordinary illness  
25 category, you go onto the next page and it gives you a 12:55  
26 sub drop down list and there's flu/viral, mental  
27 health, musculoskeletal, not provided, other - please  
28 specify, post pregnancy, pregnancy related,  
29 surgery/post op. Those are the ones on the system at

1 the time certainly, it may well still be the same  
2 system, the options that are available. Then, if we go  
3 onto the next page, it shows you what happens in terms  
4 of the screen that comes up. If you have chosen the  
5 flu viral reason, it gives you, you know, the 12:56  
6 information that you're meant to include there on that.  
7 If we scroll over to the left-hand side of the page, to  
8 see the way it's meant to operate. These are meant to  
9 be included. It's quite a long page. So the next page  
10 shows the, the far right-hand corner of it, if we 12:57  
11 scroll over the page, taking it fully to the right.  
12 That gives you a full view of what's meant to be put on  
13 the system for sickness absence management if you  
14 select flu viral under ordinary illness. Now, if we go  
15 back then to, or further on, to the next page, if you 12:57  
16 have selected the critical illness category, you just  
17 get a single --  
18 CHAIRMAN: Just give us a second.  
19 MR. McGUI NNESS: Yes, I am sorry.  
20 CHAIRMAN: To bring it around. 12:58  
21 MR. McGUI NNESS: You just get a single option if you  
22 get critical illness, covers a multitude I am sure.  
23 Then the next page, anticipating the question you were  
24 answering there, 11794, if you select the occupational  
25 injury/illness arising from duty, you get these drop 12:58  
26 downs. It would appear that there's no option at that  
27 point in time for putting in work related stress, if  
28 that has been the diagnosis obviously following  
29 investigation, I presume. So that's the way the SAMS

1 system operates. Now, as it was done in your station,  
2 I think you know that Olivia Kelly was the clerk  
3 responsible for the operation of the system, isn't that  
4 right?

5 A. Yeah. I only read that in the documents, yeah. 12:59

6 252 Q. Yes.

7 A. Sorry, I just find that incredible. There is no tab  
8 for work related stress. If I have read this correct,  
9 it's nearly as if I was the first guard in the history  
10 of the State to have gone out with work related stress. 12:59  
11 If I am reading this correctly, they don't actually  
12 have a tab for work related stress.

13 253 Q. Well, it appears that they did not have such at the  
14 time, isn't that right? That is right, I am told. We  
15 can explore that, if necessary. Just coming on to what 12:59  
16 Ms. Kelly said in her statement?

17 CHAIRMAN: I think maybe we will leave it at that  
18 point, is that convenient? Is that a good point,  
19 before we move on to Ms. Kelly? Thank you. Okay.  
20 Very good. Right, two o'clock. 13:00

21  
22 THE HEARING THEN ADJOURNED FOR LUNCH AND RESUMED, AS  
23 FOLLOWS:

24  
25 CHAIRMAN: Thank you very much. Sit down there for a 14:12  
26 moment, Garda Keogh, resume your normal position just  
27 for the moment, your unofficial position. As people  
28 will have known, we have had a somewhat longer time for  
29 lunch. I have been consulting counsel, not about the

1 evidence but about some of the processes that we have.  
2 People will realise that some of the material,  
3 specifically the subject that we're exploring today, is  
4 technical and complicated, requiring a very impressive  
5 analysis and mastery of the subject by Mr. McGuinness. 14:13  
6 But he has to put that material and everybody concerned  
7 relevantly with it has to follow these documents.

8  
9 We also have some other topics where the same issue  
10 arises. So, what I was discussing with counsel was 14:14  
11 what was the best way to proceed with that. It seems  
12 to me that it would be useful to give people an  
13 opportunity, give everybody, which includes obviously,  
14 Garda Keogh, but not simply Garda Keogh, everybody an  
15 opportunity of exploring, looking at, acquainting 14:14  
16 themselves with this material. And that, if we did  
17 that, the process would move forward more smoothly,  
18 even more smoothly than it has been progressing so far.  
19 I also think it's fair and reasonable that people  
20 should have that opportunity. 14:14

21  
22 So, in the circumstances I am very pleased that we have  
23 made so much progress in our inquiry to date, in areas  
24 that cover a huge amount of ground. So that's why I  
25 have decided that we will suspend our proceedings at 14:15  
26 this point today and we will resume at 10:30 in the  
27 morning.

28  
29 So anybody who wants then to consult Mr. McGuinness as

1 to where he is going next or what materials might  
2 well -- I am sure that Mr. McGuinness will be happy to  
3 let people know. People can have a look at the  
4 material and it will make it easier for us to progress  
5 tomorrow with the other issues.

14:15

6 MR. KELLY: Thank you very much, Chairman. I will  
7 certainly will be making, I hope, a relatively short  
8 submission to you when we resume, on this very topic of  
9 the sick pay classification and so on.

10 CHAIRMAN: Yes.

14:16

11 MR. KELLY: I want to do a bit of further research.

12 CHAIRMAN: I can quite understand. I mean, frankly I  
13 think, if I may say so, we are all learning more about  
14 the SAMS system and the options and methods. I have to  
15 say, it's material that's new to me, if I can make that  
16 confession. So, thanks very much. That's what we will  
17 do. All right. Thank you very much.

14:16

18

19 THE HEARING THEN ADJOURNED UNTIL FRIDAY, 18TH OCTOBER

20 2019 AT 10:30AM

14:16

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