



Tribunal of Inquiry into disclosures made under the Protected Disclosures Act 2014 and certain other matters

Established by the Minister for Justice and Equality under the Tribunals of Inquiry (Evidence) Act 1921,
on 17th February 2017 by instrument

The Hon Mr Justice Peter Charleton

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Public notice

The tribunal is mindful that the instrument setting up this process, pursuant to resolution of Dáil Éireann and Seanad Éireann, noted that “a public enquiry is the most appropriate way to investigate” the matters of “public disquiet” at issue in the terms of reference.

The tribunal, mindful that it is required “to inquire urgently into” the issues before it pursuant to the mandate of the Oireachtas as “definite matters of urgent public importance”, now makes the information below available.

1. Having sat between 18 September and 23 October 2017 in relation to term of reference (n), that is to “investigate contacts between members of An Garda Síochána and TUSLA in relation to Garda Keith Harrison”, the tribunal has prepared “a report” which makes “such findings and recommendations as it sees fit in relation” to that matter. This has been done, as the Oireachtas required, “as expeditiously as possible”. That report is now being professionally proofread. The report will be delivered in written and electronic format, as the instrument setting up the tribunal requires, “to the Clerk of Dáil Éireann” during the coming week, that is the week beginning Monday 27 November 2017. This incorporates the 2nd interim report of the tribunal as the instrument setting up the tribunal requires.
2. The tribunal has sat from 4 July to 27 July 2017 and on 25 October 2017 in relation to term of reference (d), as to the “creation, distribution and use by TUSLA of a file containing false allegations of sexual abuse against Sergeant Maurice McCabe” and as to whether any use was “knowingly” made of same to “discredit” him “by senior members of An Garda Síochána”. According to the submissions of all of the represented parties, certain findings of fact may depend on evidence to be given in relation to other of the terms of reference. In consequence, these issues must be heard and determined before any final report is possible. The tribunal, however, intends to fulfil its mandate expeditiously.
3. The tribunal will sit from Monday 8 January 2018 in relation to terms of reference (a), (b), (c), (e), (f), (g), (i), (j), (k), (l) and (m). The tribunal is mindful that it will also seek to determine if any pattern under term of reference (o) may thereby emerge. In considering those terms of reference, the tribunal is mandated by the Oireachtas, under term of reference (h), to “investigate contacts between members of An Garda Síochána” and “any relevant person” which the tribunal “may deem necessary to carry” out its work. This includes, but is not limited to, “members of the Government”, the media, social services and “any other State entities”. This

grouping of terms of reference will be dealt with in a single hearing with a view to completing the hearings of the tribunal with the utmost expedition. This is subject to the cooperation of the parties. It necessitates the tribunal enquiring into the allegations of Superintendent David Taylor as to alleged negative briefing against Sergeant Maurice McCabe and the knowledge, if any, Commissioner Callinan and Commissioner O’Sullivan, both now no longer in office, had of same, and whether Sergeant McCabe was subject to any attempt to “entrap or falsely accuse” him of “criminal misconduct”. Necessarily included are telecommunications interactions, electronic and paper files bearing on same and any meeting relevant, including, but not limited to, that in Bewley’s Hotel on 24 January 2014. A central part of this enquiry is as to attitudes to Sergeant McCabe and any translation of that into malicious behaviour or inappropriate action. In that regard, the tribunal is specifically mandated to enquire into any use by “Commissioner O’Sullivan” of “false allegations of sexual abuse or any other unjustified grounds” which may have been “inappropriately relied on ... to discredit” him before the Commission of Investigation chaired by Mr Justice Kevin O’Higgins. That enquiry makes relevant any “contacts between members of An Garda Síochána” and the media, or “members of the Government” or any other “relevant person” at the tribunal’s discretion. This hearing will incorporate any issue as to the RTÉ broadcasts of 9 May 2016 and the role, if any, of Commissioner O’Sullivan.

4. The order in which the tribunal proposes to pursue that work is to commence with the O’Higgins Commission issue. The tribunal already has considerable documentation on this matter, including the complete and unredacted transcripts of the hearings and the advices in writing of counsel as to their proposed approach. The tribunal will begin distributing electronic copies shortly. This will logically lead the hearings in to the Superintendent Taylor negative briefing matter and other issues. The volumes of materials on this matter are in an advanced stage of preparation and distribution to represented parties will be made as soon as possible.
5. The tribunal is also carrying out a scoping exercise on term of reference (p), as to any targeting or discrediting of any Garda “who has made a protected disclosure”. The tribunal is calling for any Garda who made such a protected disclosure prior to 16 February 2017, who has not already done so, to provide a statement to it by the latest 18 December 2017.
6. A full copy of the terms of reference, the explanation thereof, the tribunal’s opening statement of 27 February 2017, counsel’s opening statement covering the projected issues before the tribunal of 14 June 2017, the relevant legislation and all of the transcripts, including a day of private hearing as redacted, are to be found on the tribunal’s website on www.disclosuretribunal.ie.

The tribunal has been working on the task mandated to the tribunal. This mandate is from the Oireachtas to the tribunal in order “to ensure public confidence in An Garda Síochána” and is also expressed “to respond to the public disquiet caused” by the matters in issue. The tribunal intends to complete its work as soon as possible.

Any further queries may be directed to the tribunal’s registrar, Peter Kavanagh, at the contact details listed above.

Dublin, Friday 24 November 2017