

TRIBUNAL OF INQUIRY

INTO PROTECTED 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, BY
INSTRUMENT ON THE 17TH DAY OF FEBRUARY 2017 AND AS AMENDED
BY INSTRUMENT DATED THE 7TH DAY OF DECEMBER 2018

SOLE MEMBER: MR. JUSTICE SEÁN RYAN

TERM OF REFERENCE (P) - OPENING STATEMENT

HELD IN DUBLIN CASTLE
ON THURSDAY, 11TH APRIL 2019

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in the above-named
action

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1 THE HEARING COMMENCED ON THURSDAY, 11TH DAY OF
2 APRIL, 2019 AS FOLLOWS:

3
4 OPENING STATEMENT BY THE CHAIRMAN:

5
6 CHAIRMAN: Now, good morning, everybody, and, if I can
7 find my notes, welcome to this sitting of the
8 Disclosures Tribunal, which is to deal with the term of
9 reference that was postponed for later consideration
10 after the work of my distinguished colleague member,
11 Mr. Justice Charleton, was completed. Those inquiries
12 and the subsequent reports are well-known to everybody
13 here and to the wider Irish public.

11:00

11:01

14
15 This part of the Tribunal's work is entirely separate
16 from the investigations carried out by Judge Charleton,
17 and we are embarking on new explorations of matters
18 defined by the final term of the -- terms of reference
19 of the Tribunal. More on that in a moment.

11:01

20
21 The agenda appears in our notice that we published.

11:01

22
23 And let me just begin by introducing the Tribunal's
24 legal team, and we have Mr. Diarmaid McGuinness, Senior
25 Counsel; Mr. Patrick Marrinan; Ms. Sinéad McGrath, who
26 is a junior counsel, a barrister; and Mr. John Davis, a
27 solicitor; and we have Ms. Ciara Ní Ghabhann, legal
28 researcher. You may see Mr. Philip Barnes, who is our
29 office manager, moving around, and if issues arise or

11:02

1 there are things you want to ask, consult Mr. Barnes.
2 Mr. Curran is the sound engineer. If anybody has
3 hearing aids or difficulties getting into the audio
4 loop, he is the man to check out, but otherwise the
5 thing should work, we hope. Ms. Downes -- Aoife Downes 11:02
6 is the stenographer.

7
8 So, now, let's proceed.

9
10 The Disclosures Tribunal was established by Ministerial 11:03
11 Order on the 17th February 2017 to inquire into
12 definite matters of urgent public importance that were
13 set out in 16 Terms of Reference listed from (a) to
14 (p). The instrument appointed Mr. Justice Charleton as
15 the sole Member and it directed that the inquiry be 11:03
16 carried out in two modules, the first dealing with
17 terms from (a) to (o) and the second dealing with term
18 of reference (p).

19
20 The first module concerned Sergeant Maurice McCabe, 11:03
21 Garda Keith Harrison and Tusla. Mr. Justice Charleton
22 completed his inquiry into these matters and submitted
23 reports on the 30th November 2017 and the 11th October
24 2018.

25 11:03
26 The instrument of appointment and the resolutions on
27 which it was founded envisaged that the second module
28 of the inquiry, dealing with issues under (p), might be
29 carried out by a judge other than Mr. Justice Charleton

1 if he indicated a wish for that to happen when he had
2 inquired into terms (a) to (o). The judge notified the
3 Government that he did wish to be replaced for term of
4 reference (p) and new resolutions were in due course
5 passed by Dáil Éireann and Seanad Éireann providing for 11:04
6 my appointment as a member of the Tribunal.

7
8 Because Mr. Justice Charleton had a continuing role
9 dealing with costs in relation to terms of reference
10 (a) to (o), the amending resolutions provided that he 11:04
11 remain as overall chair of the Tribunal, and he then
12 appointed me as chair of the inquiry into term of
13 reference (p). These various resolutions and
14 instruments appear on our Tribunal website.

15
16 Now, term of reference (p) is as follows: 11:05

17
18 "To consider any other complaints by a member of the
19 Garda Síochána who has made a protected disclosure
20 prior to 16th February 2017 alleging wrongdoing within 11:05
21 the Garda Síochána where, following the making of the
22 protected disclosure, the garda making the protected
23 disclosure was targeted or discredited with the
24 knowledge or acquiescence of senior members of the
25 Garda Síochána. " 11:05

26
27 In this opening statement, I want to say a word about
28 the inquiry generally, publish the Tribunal's
29 interpretation of term of reference (p) and make some

1 general comments and refer to upcoming hearings.

2
3 Public inquiry function:

4
5 In a judgment of the Supreme Court in July 1998, Chief Justice Hamilton said that: 11:05

6
7
8 "... the principal function of such Tribunals has been
9 to restore public confidence in the democratic
10 institutions of the State by having the most vigorous 11:06
11 possible enquiry consistent with the rights of its
12 citizens into the circumstances which give rise to the
13 public disquiet. "

14
15 The court also said: 11:06

16
17 "The essential purpose... for which a Tribunal is
18 established under the 1921 Act is to ascertain the
19 facts as to the matters of urgent public importance
20 which it is to enquire into and report those findings 11:06
21 to parliament or the relevant Minister. "

22
23 The Chief Justice outlined the stages of a tribunal of
24 inquiry as follows:

25
26 "(1) A preliminary investigation of the evidence
27 available;

28 (2) The determination by the Tribunal of what it
29 considers to be evidence relevant to the matters into

1 which it is obliged to enquire;

2 (3) The service of such evidence on persons likely to
3 be affected thereby;

4 (4) The public hearing of witnesses in regard to such
5 evidence and the cross-examination of such witnesses by 11:07
6 or on behalf of persons affected thereby;

7 (5) The preparation of a report and the making of
8 recommendations based upon facts established at such
9 public hearing. "

10
11 In this inquiry, the steps in the full consideration of 11:07
12 a complaint begin with the additional task of
13 determining admissibility. Then there is the work of
14 assembling documentary materials, using the legal
15 process of discovery as necessary, identifying relevant 11:07
16 witnesses and obtaining statements and defining the
17 issues, before embarking on preparations for hearings
18 with all the procedural measures the law dictates for
19 the protection of rights.

20
21 These observations may help to explain why tribunals 11:07
22 are lengthy and costly, no matter how efficiently they
23 are administered. The visible element of an
24 investigation, when public hearings take place,
25 represents a small fraction of the body of work that 11:08
26 they do. The task of this Tribunal in preparing for
27 hearing of an admissible complaint may be likened to a
28 legal firm preparing the cases of all the litigants in
29 a multi-party and multi-issue case.

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It will also be apparent that the Tribunal is dependent on the cooperation of participants and other parties and witnesses in carrying out its work. This includes compliance with discovery of documents requests or orders, providing statements and responding to queries, as well as facilitating Tribunal investigators in conducting their interviews.

11:08

Term of Reference (p) and Interpretation:

11:08

The Tribunal gets its jurisdiction from the terms of reference and only from them. It has no inherent or independent capacity to investigate or, in the words of term of reference (p), to consider any complaint unless it comes within the reference term.

11:09

In the judgment cited above, the Supreme Court adopted a passage from the 1966 Salmon Report in England about the interpretation of the terms of reference as a correct statement of the law and practice applicable to tribunals of inquiry in this jurisdiction. And the quote from the Salmon Report is as follows:

11:09

"The Tribunal should take an early opportunity of explaining in public its interpretation of its terms of reference and the extent to which the inquiry is likely to be pursued. As the inquiry proceeds, it may be necessary for the Tribunal to explain any further

11:09

1 interpretation it may have placed on the terms of
2 reference in the light of the facts that have emerged."

3
4 That is the end of the quote.

5
6 The Tribunal's interpretation of its mandate under
7 reference (p) is explained in this statement, and it
8 may be summarised as follows:

9
10 The essence of this reference is that the Tribunal is
11 to consider complaints made by persons who, as members
12 of An Garda Síochána, made protected disclosures before
13 the relevant date and who allege that they were
14 thereafter targeted or discredited with the knowledge
15 or acquiescence of officers of superintendent rank or
16 higher.

17
18 A complaint in the meaning of paragraph (p) is a
19 written communication made to the Tribunal by an
20 individual who maintains that he or she was victimised
21 in the specific manner described in (p).

22
23 An essential condition of admissibility under heading
24 (p) is that the garda concerned made a protected
25 disclosure prior to the date when the Tribunal was
26 established. Any later events are excluded for
27 consideration by this body as a matter of jurisdiction.

28
29 what is a protected disclosure? This is the kind of

1 report of wrongdoing that is the subject of the
2 Protected Disclosures Act, 2014. The reference at (p)
3 is to a disclosure as defined in the Act. If a report
4 does not come within the statutory definition, it is
5 excluded because the Tribunal does not have any 11:11
6 jurisdiction to consider it. The Act specifies the
7 content of the disclosure and the persons and bodies to
8 whom it is made and it is not intended to set out or
9 summarise its provisions in this introductory
10 statement. The legislation should be consulted for the 11:11
11 full terms, the interpretation of which may require to
12 be determined in a particular case. Subject to that
13 reservation, for present purposes it is sufficient to
14 say that a protected disclosure includes a report to an
15 appropriate person or body by a garda of wrongdoing in 11:11
16 the force that constitutes an offence in law or a
17 failure to comply with the general (not merely a
18 contractual) legal obligation and that came to the
19 garda's attention in course of work. The 2014 Act
20 provides safeguards for whistleblowers whose reports of 11:12
21 wrongdoing comply with these statutory conditions. It
22 is noteworthy that the 2014 Act applies to a qualifying
23 disclosure whether it was made before or after the
24 legislation was enacted.

25
26 An important limitation on any consideration by the
27 Tribunal is that the focus of the mandate, and
28 therefore the Tribunal, is not on the wrongdoing
29 reported in the disclosure, no matter how serious the

1 allegations, but rather on the conduct towards the
2 garda subsequent to the disclosure. While these
3 matters may not in particular circumstances be sealed
4 off in discrete compartments and there may be some
5 elements of overlap, the focus of any inquiry is 11:12
6 clearly defined in term of reference (p).
7

8 Another essential jurisdictional requirement under term
9 of reference (p) is that the targeting or discrediting 11:13
10 directed towards the whistleblower after the disclosure
11 was condoned or tolerated or known about by senior
12 members of the Garda Síochána. The Tribunal notes the
13 context of (p) in relation to the other terms of
14 reference of the Tribunal, the majority of which
15 directed an investigation into grave allegations of 11:13
16 misconduct against senior Garda management in relation
17 to Sergeant Maurice McCabe. We may take it that the
18 Oireachtas was concerned to ascertain whether there
19 were other gardaí in a similar situation to Sergeant
20 McCabe who maintained that they were victimised because 11:13
21 they spoke out about wrongdoing in the force and that
22 senior officers knew about it or acquiesced in it. So
23 members who made protected disclosures reporting
24 serious malpractices and were subsequently targeted or
25 discredited with official or senior condonation were 11:14
26 intended to be covered.
27

28 In his opening statement of the first phase dealing
29 with reference (a) to (o), Mr. Justice Charleton

1 defined "discredit" within the meaning of the inquiry
2 as including the fostering of disparagement, mistrust,
3 suspicion, disbelief or otherwise to convey or cause
4 reputational damage in a personal and/or professional
5 sense. "Targeted" meant abuse or criticism directed at 11:14
6 a person. He also defined "senior members of the Garda
7 Síochána" as being officers of the rank of
8 superintendent and above, as well as anybody acting in
9 those capacities. The Tribunal adopts those
10 definitions for this phase. 11:14

11
12 The gardaí to whom reference (p) applies, i.e.
13 individuals whose complaints may be considered by the
14 Tribunal, are persons who, as members of An Garda
15 Síochána, made protected disclosures before the 16th 11:15
16 February 2017 and who allege that they were thereafter
17 targeted or discredited with the knowledge or
18 acquiescence of officers of superintendent rank or
19 higher. While a close literal reading of term of
20 reference (p) may suggest that complaints could only be 11:15
21 received by the Tribunal from serving gardaí, the
22 Tribunal is satisfied that it has construed the true
23 intention of the Oireachtas and that such a narrow
24 interpretation would be unreasonable and impracticable
25 and inconsistent with the intention of the legislature. 11:15
26 Therefore, the Tribunal is considering complaints from
27 both serving and retired members of An Garda Síochána.

28
29 However, there is no reason to think that the

1 Oireachtas intended that this module of the Tribunal
2 should embark on a historical investigation of every
3 case of a garda who believed he or she was victimised
4 because of making a complaint of serious misconduct.
5 If a major historical inquiry was envisaged, it would 11:16
6 have been charted in more than a brief, final term of
7 reference and in clear language. This view is
8 supported by analysis of the debates in the Houses on
9 the resolutions establishing this inquiry. The warrant
10 contained in the terms of reference does not require or 11:16
11 justify an open-ended consideration of complaints from
12 serving or retired gardaí.

13
14 In a public statement in November 2017, the Tribunal
15 called for receipts -- for receipt of complaints, 11:16
16 stating:

17
18 "The Tribunal is also carrying out a scoping exercise
19 on term of reference (p) as to any targeting or
20 discrediting of any garda 'who has made a protected 11:17
21 disclosure'. The Tribunal is calling for any garda who
22 made such a protected disclosure prior to 16th February
23 2017, who has not already done so, to provide a
24 statement to it by the latest 18th December 2017."

25 11:17
26 Term of reference (p) does not specify a time frame for
27 complaints. However, the Tribunal is in existence to
28 address urgent matters of public importance and is
29 obliged to complete its work expeditiously. It is

1 therefore impractical for the Tribunal to issue a
2 general invitation for new submissions of complaints to
3 add to those already notified, but neither can it be
4 said that the door is closed in all circumstances.

11:17

5
6 It remains to refer to a key component of the mandate
7 set out in term (p), which is "to consider". The terms
8 of reference as a whole mandate the Tribunal "to
9 investigate" specified matters in 13 terms of reference
10 and "to examine and consider" in two terms of
11 reference. On only one occasion, that is in reference
12 (p), is the simple verb "to consider" employed. It is
13 apparent from the context of this Tribunal and from the
14 meaning of the word that "consider" allows for an
15 investigation of a complaint but does not require that.

11:18

11:18

16
17 "Consider" in context implies a wide discretion as to
18 the mode of examination and indeed it is a decision for
19 the Tribunal whether to proceed with the complaint,
20 even if it complies with the admissibility requirements
21 of reference (p). Issues of justice, practicability or
22 expediency may make it inappropriate to proceed with
23 the complaint. For example, many of the persons
24 involved may be deceased in a case that depends on
25 personal recollection and testimony. It may be
26 impossible to conduct a thorough consideration of a
27 complaint for a variety of reasons. On the other hand,
28 it might be possible to consider a complaint in a
29 compact, focused format.

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Consideration of some cases will focus primarily or exclusively on admissibility questions. The Tribunal interprets its function under (p) as giving a wide discretion as to what complaints to examine and as to the mode of consideration, while being alert at all times to the stringent constitutional and legal requirements of fair procedures.

11:19

Procedures:

11:19

The Tribunal has published its scheme of procedures which, as stated therein, are not rigid canons to be applied in all circumstances, irrespective of practicality or justice. They may have to be altered in particular circumstances where they might otherwise be unfair or unreasonable or unsatisfactory. To revert to Chief Justice Hamilton speaking for the Supreme Court in the seminal case cited above, he referred to the constitutionally protected guarantee of basic fairness and procedure and endorsed the following authority:

11:20

11:20

"The requirements of natural justice must depend on the circumstances of the case, the nature of the inquiry, the rules under which the tribunal is acting, the subject matter that is being dealt with and so forth."

11:20

Questions of relevance of issues, evidence and

1 witnesses will, as far as possible, be addressed in
2 private session in advance of hearings in order to
3 respect the rights of persons affected.
4

5 General comments:

11:20

6
7 As mentioned in the interpretation, it is a cardinal
8 principle of inquiries that the terms of reference
9 define the jurisdiction of the tribunal. It is not a
10 matter of choice; the inquiry simply doesn't have any
11 legal competence to investigate matters outside its
12 terms of reference.

11:21

13
14 It is understandable that some persons making
15 complaints to the Tribunal may be disappointed to find
16 that it is not possible to investigate their grievances
17 because they are not within the Tribunal's remit and
18 therefore inadmissible. Gardaí whose complaints are
19 considered admissible may also be unhappy because some
20 substantial or significant part of their allegations is
21 not the subject of investigation or a public hearing.
22 Legal advisers will no doubt apprise their clients of
23 the legal constraints on a public inquiry such as this.
24 If we were to trespass outside our limited zone of
25 jurisdiction, it would be open to anybody affected by
26 the investigation to get an order from the High Court
27 prohibiting it, but fear of litigation is not a factor.
28 The reality is that no tribunal would intentionally
29 engage in a process which it was not authorised to do.

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I recognise that it may be difficult for parties to exercise the necessary restraint in this matter and for lawyers to resist the urgings of their clients, but it is not a matter of choice. The person making the complaint may well be disappointed that the original allegation is not being examined to establish the truth one way or the other. The Tribunal, however, does not have the legal capacity to embark on such an investigation. That is not what the Oireachtas has specified in the terms of reference. It is important, I think, to make this clear so that there is no misunderstanding.

There would be serious potential injustices if the consideration of a complaint trespassed into unauthorised areas. If criticisms are made of persons, the Tribunal has the dilemma of how to respond in a manner that reflects fairness as well as legality. Suppose, for example, that criticism were to be levelled in respect of an inadmissible allegation against persons not involved in the Tribunal's consideration, the Tribunal is not permitted to embark on an inquiry into the matter. If the Tribunal report offers a view on the criticism, it will have done so on the basis of inadequate evidence. The factual basis of the complaint may be strongly, even vehemently, held by the complainant, but that doesn't make it admissible; moreover, engaging with the inadmissible element or

1 having a battle over admissibility is fraught with
2 unsatisfactory outcomes.

3
4 Considerations of admissibility also apply to the
5 preliminary analysis of complaints. If the case as put 11:23
6 by the person applying to the Tribunal cannot fit
7 within the term of reference, then it is not legally
8 possible for it to be considered. The Tribunal does
9 not apply a test of validity or credibility to a
10 complaint in order to decide admissibility. The 11:24
11 Tribunal does not adopt an overly-technical approach at
12 this preliminary stage and will direct further
13 inquiries to be made, if necessary, by assigning
14 Tribunal investigators to interview the complainant in
15 order to clarify any doubtful point on admissibility. 11:24
16 The Tribunal also takes the view that in a doubtful
17 or debatable case, it may be appropriate to seek legal
18 submissions on the question of admissibility.

19
20 The terms of reference assign the tasks that the 11:24
21 Tribunal is required to accomplish. It is for the
22 Tribunal itself to identify the specific issues it will
23 address in achieving this objective.

24
25 The Tribunal's legal team -- this is the present 11:25
26 position, where we are -- the Tribunal's legal team is
27 preparing for the first cases that will be the subject
28 of public hearings. We are anxious to proceed as
29 expeditiously as possible, bearing in mind the

1 importance and urgency of the issues, but it is
2 imperative not only to respect fair procedures but also
3 to be sure that all appropriate preparatory inquiries
4 have been made. The measures outlined in the scheme of
5 procedures previously published on the Tribunal's 11:25
6 website are designed to ensure that participants in the
7 Tribunal's work are afforded all necessary facilities.

8
9 This is not an occasion for applications for legal
10 representation. The Tribunal deals with applications 11:25
11 for legal representation by correspondence as far as
12 possible. If it becomes necessary to have a hearing in
13 public on such an issue, that will be arranged in due
14 course with a specific agenda. Anybody seeking legal
15 representation in respect of any part of the Tribunal's 11:26
16 work, who has not already done so, should write to the
17 Tribunal setting out the reasons why representation is
18 sought and the nature of the representation requested.

19
20 We have received applications for legal representation 11:26
21 and are dealing with them on an individual basis in
22 correspondence. The granting of representation and the
23 consequential right of audience before the Tribunal
24 does not in any way determine the level of
25 representation that any party wishes to have. That is a 11:26
26 matter for each party. It is further not an order for
27 costs in respect of any party. The grant of legal
28 representation does not mean that costs will
29 automatically be paid, and any application for an award

1 of legal costs must be made at the conclusion of the
2 Tribunal in accordance with the relevant legislation.

3
4 Timescale and schedule:

5
6 The Tribunal is planning to embark on considering the
7 first complaint in late June 2019. Other cases will
8 follow later in the year and, as I anticipate, into
9 2020.

10
11 The Tribunal will also address issues of admissibility
12 as we proceed and notify persons who made complaints,
13 of the decisions. We will proceed with our mandate as
14 expeditiously as possible, consistent with observance
15 of fair procedures.

16
17 And thus ended the opening statement.

18
19 Mr. McGuinness, where do we stand or what do we do
20 next?

21 MR. MCGUINNESS: Thank you, Chairman. The position is,
22 Chairman, that the first case that you indicate that
23 will be listed for public hearing is that of a
24 complaint made and made for consideration by the
25 Tribunal by Garda Nicholas Keogh.

26 CHAIRMAN: Yes.

27 MR. MCGUINNESS: And the preparations are continuing in
28 terms of the taking of statements, the obtaining of
29 documents, the interviewing of witnesses, so as to

1 enable the matter hopefully proceed to a public hearing
2 in the last week in June, if possible, and on --
3 sitting on, if possible, into the month of July to try
4 and conclude the hearings relating to the consideration
5 of his complaint. I should say that an essential part 11:28
6 of the preparation for that is one that envisages, as
7 part of the Tribunal's preliminary inquiries, the
8 holding of a case management meeting --

9 CHAIRMAN: Yes.

10 MR. McGUI NNESS: -- in procedural terms. This 11:28
11 obviously will take place in the context of the
12 Tribunal's preliminary inquiries, rather than being a
13 public sitting or a sitting at all of the Tribunal. It
14 is intended to seek the submissions of Garda Keogh
15 obviously, but also the submissions and views of other 11:29
16 parties in relation to issues which are raised from a
17 consideration of his protected disclosure and, more
18 particularly, of course, from a consideration of the
19 complaints of targeting or discrediting. So it follows
20 that we will be required to put on notice persons who 11:29
21 are, as it were, implicated in the complaint or whose
22 conduct is in any way called into question by
23 virtue of the complaint --

24 CHAIRMAN: If they are in some way involved?

25 MR. McGUI NNESS: Yes, yes, indeed. And the purpose of 11:29
26 it is -- I think naturally flows on, Chairman, from
27 your identification of the limits of the jurisdiction
28 of the Tribunal. It cannot obviously, as you have
29 stated, inquire into matters that are not mandated, but

1 it's regarded as an essential step by the Tribunal team
2 to have this case management meeting of a procedural
3 nature which will hear the views of parties on their
4 perspective of what the relevant issues are, what is or
5 is not or may be admissible or what is relevant or what 11:30
6 witnesses might be considered to be relevant to the
7 issues raised by Garda Keogh's complaint.

8 CHAIRMAN: And the procedures document envisages, isn't
9 that right, that parties will make a suggestion?

10 MR. McGUI NNESS: Indeed, Chairman. The purpose is, if 11:30
11 we achieve this, is considered to be of great value to
12 the Tribunal because it will enable us and all the
13 parties to know the basis upon which the Tribunal will
14 be approaching the public hearing.

15 CHAIRMAN: All right. 11:31

16 MR. McGUI NNESS: And it will enable you to consider all
17 issues relating to what are the proper issues that will
18 go forward for public hearing and the relevance of any
19 matters that might be --

20 CHAIRMAN: Are you suggesting a date for the case 11:31
21 management meeting?

22 MR. McGUI NNESS: Yes, we are proposing to have the
23 meeting scheduled for Tuesday the 30th April, and we
24 envisage formally putting Garda Keogh and any other
25 relevant parties on notice who are in any way 11:31
26 implicated in the matter, allegedly, and who may have
27 an interest in making submissions to the Tribunal about
28 the extent of the issues or the relevance or
29 irrelevance of some issues. So we intend to progress

1 that, Chairman, by writing letters in the immediate
2 future to Garda Keogh and the relevant parties, so as
3 to achieve that objective.

4 CHAIRMAN: Yes.

5 MR. MCGUINNESS: That, when achieved, will allow us 11:32
6 then to settle on the process of the extraction of all
7 the relevant documentation from the discovery, the
8 preparation of witness lists and the preparation of
9 books of documents to be served on all relevant
10 parties. 11:32

11
12 Insofar as other complaints are concerned, the Tribunal
13 received, at its establishment, a number of complaints
14 from members and from retired members. These obviously
15 could not then be considered in the context of term of 11:32
16 reference (p) having been parked, as Mr. Justice
17 Charleton noted it. So the position in relation to
18 other complaints, Chairman, is that they have been
19 received at different periods, from different members,
20 obviously, and with different levels of documentation, 11:33
21 and have necessitated a different range of inquiries,
22 and those preliminary inquiries are continuing in
23 relation to those other complaints, and I don't think
24 it's either appropriate to identify the complainants
25 myself at this stage or to provoke any discussion about 11:33
26 the contents of those complaints while our preliminary
27 inquiries are still continuing.

28 So I think, Chairman, that's as much as I need to say.

29 CHAIRMAN: Very good. Well, now, Ms. Brennan, you

1 appear for Garda Keogh, is that correct?

2 MS. BRENNAN: Yes, Chairman, I appear with John Rogers,
3 Senior Counsel, Patrick O'Brien BL, and I am instructed
4 by John Gerard Cullen. We appear for Garda Keogh. We
5 have noted the comments of counsel for the Tribunal, 11:33
6 and we will work to -- we will work to meet whatever
7 timetable is set, we will try and do what we can.

8 CHAIRMAN: Yes. Thank you very much. Now, Mr. Dignam,
9 you appear for the -- for whom?

10 MR. DIGNAM: I suppose, in shorthand, Chairman, I 11:34
11 appear for An Garda Síochána and quite a number of
12 members of An Garda Síochána.

13 CHAIRMAN: But not all of the people involved, is that
14 right?

15 MR. DIGNAM: Not all -- 11:34

16 CHAIRMAN: Not all of the members of the Garda Síochána
17 who are involved, I suppose, is the best term, or
18 concerned in the matter in some shape or form, is that
19 right?

20 MR. DIGNAM: Yes, that's right, Chairman. And 11:34
21 obviously the legal team of the Commissioner of An
22 Garda Síochána is available to any members, but some
23 will choose to avail of independent representation, and
24 that's their prerogative, obviously, Chairman. I also
25 noted the comments of Mr. McGuinness, and we will work 11:34
26 to whatever timescale the Tribunal sees fit.

27 CHAIRMAN: Yes. Okay. And, Mr. McGuinness, we are in
28 contact with the people who are not represented by
29 Mr. Dignam, is that right?

1 MR. MCGUINNESS: Yes, we have received correspondence
2 from, I think, Reddy Charlton McKnight. Mr. Hegarty
3 was the solicitor, who has vast experience of dealing
4 with other gardaí, and we have received a list of
5 clients who are represented by Reddy Charlton, and I 11:35
6 think a solicitor is here from --
7 CHAIRMAN: I am sorry. Thank you.
8 MS. QUINN: Paula Quinn from Reddy Charlton.
9 CHAIRMAN: Thank you very much. Thanks, Ms. Quinn.
10 Very good. So anything else then to deal with, or can 11:35
11 we bring matters to a conclusion?
12 MR. MCGUINNESS: I think so, Chairman. I should just,
13 I suppose, note for the record that the Tribunal did
14 write to parties who had made submissions of complaint
15 to the Tribunal, informing them of the existence of the 11:35
16 sitting and saying that they were, of course, free to
17 attend but there was no obligation on them to attend.
18 CHAIRMAN: Yes, they don't have to -- they didn't have
19 to -- they were welcome to show up but they didn't have
20 to. 11:36
21 MR. MCGUINNESS: Yes. There may be some here or not,
22 but I am not inviting anyone in particular to make any
23 submission or appearance, unless they feel it
24 necessary. So, if -- other than that, Chairman, I have
25 nothing further to say. 11:36
26 CHAIRMAN: Okay. So basically that is the opening
27 statement and the preliminary comments about the
28 complaint made by Garda Keogh, which we propose to
29 embark on in the first instance and we will proceed

1 from there. Thank you very much. So, what we will do
2 is, we will announce a date for the public hearing,
3 which will be the opening of the Garda Keogh complaint
4 consideration, we will announce that as soon as
5 possible, but obviously, in the meantime, the
6 management -- the management occasion will proceed.
7 All right. Thank you very much.

8
9 THE TRIBUNAL THEN ADJOURNED.

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