

MEDICAL COUNCIL OF IRELAND

FITNESS TO PRACTISE COMMITTEE
UNDER PART 8 OF THE MEDICAL PRACTITIONERS ACT 2007

RE: REGISTRANT [WITNESS B]
REGISTRATION NO: 405670

HEARING BEFORE THE FITNESS TO PRACTISE COMMITTEE
VIA TRIALVIEW,
ON TUESDAY, 3RD JUNE 2025 - DAY 10

10

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APPEARANCES

THE COMMITTEE :

MR. PAUL HARKIN - CHAIR
MS. MARY DEVINS
DR. MARY DAVIN-POWER

LEGAL ASSESSOR :

MR. DIARMAID McGUINNESS SC

FOR THE CEO :

MR. HUGH McDOWELL BL

INSTRUCTED BY :

MS. AINE GROGAN
SOLICITOR
MESSRS. FIELDFISHER
SOLICITORS

FOR THE REGISTRANT :

MS. MAURA McNALLY SC

INSTRUCTED BY :

MR. FAISAL KHAN
SOLICITOR
MESSRS. FSK SOLICITORS

ALSO PRESENT :

MR. JOHN SIDEBOTTOM
PROFESSIONAL STANDARDS SECTION OF
THE MEDICAL COUNCIL

WITNESS B
REGISTRANT

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1 THE HEARING RESUMED ON TUESDAY, 3RD JUNE 2025, AS
2 FOLLOWS:

3
4 CHAIRPERSON: Thank you very much. Good morning to you
5 all.

08:27

6 MS. McNALLY: Morning.

7
8 INTRODUCTORY REMARKS BY THE CHAIRPERSON:

9
10 CHAIRPERSON: This is an inquiry by the Fitness to
11 Practise Committee under Part 8 of the Medical
12 Practitioners Act 2007. This is Day 10 of an inquiry
13 into allegations of professional misconduct; and/or
14 poor professional performance; and/or a contravention
15 of a provision of the Medical Practitioners Act of
16 2007, including a provision of any regulations or rules
17 made under this Act on the part of a registered medical
18 practitioner.

08:27

08:27

19
20 Although this Inquiry is proceeding in public, the
21 complainant has been anonymised at witness A and the
22 Registrant, against whom allegations have been made has
23 been anonymised as witness B.

08:27

24
25 It has been suggested that the reasons for the
26 anonymity for witness B fallen away in circumstances
27 where he has made a full admission. Rather than
28 introduce any additional delay by inviting submissions
29 on that matter, this Committee will continue to respect

08:27

1 those previous anonymity decisions.

2
3 So, for the conclusion of this Inquiry, in the event
4 that either witness is inadvertently referenced by
5 their actual name, or in a way which might identify 08:28
6 them, parties to this Inquiry are ordered not to
7 disclose that identity. The transcript of this Inquiry
8 will be amended, as necessary, to correct any
9 inadvertent disclosures.

10
11 So, once again, so for anyone new who might be new to
12 this Inquiry, the members of the Fitness to Practise
13 Committee here today: My name is Paul Harkin, I chair
14 this Inquiry Committee, I'm not a medical practitioner.
15 You'll also see on your screens Ms. Mary Devins, 08:28
16 Ms. Devins is also not a medical practitioner. And
17 Dr. Mary Davin-Power, who is a medical practitioner.

18
19 With the Committee is Mr. Diarmuid McGuinness, senior
20 counsel, he's the Legal Assessor to the Committee. 08:28

21
22 So on Day 9 we heard submissions from both Mr. McDowell
23 and Ms. McNally in respect of sanction, and I'm
24 conscious that both submissions were made in
25 circumstances where parties were put under some time 08:28
26 constraints. So in a moment I was going to suggest
27 that I propose offering both counsel a further
28 opportunity to make submissions on sanction, if they
29 wish, so that they're not in any way restricted in

1 their submissions.

2
3 I remind both parties that they will have an
4 opportunity to make submissions directly to the Council
5 itself at a future sanctioning hearing under Section 71 08:29
6 of the Act, and at that stage both parties will have
7 the benefit of the Committee's report which will
8 include our findings and our recommendations as to
9 sanction.

10
11 The Committee will hear Mr. McGuinness's advice in
12 respect of sanction, and any other matter that he feels
13 appropriate. 08:29

14
15 So, on that basis good morning to both counsel. Can I 08:29
16 ask if either -- well, first of all, Mr. McDowell, good
17 morning to you; do any further submissions that you
18 wish to make in respect of the issue of sanction?

19
20 SUBMISSION BY MR. McDOWELL:

21
22 MR. McDOWELL: Good morning, Chair, Committee members,
23 I don't have any new submission to make, I just want
24 to, in three sentences, just touch on one issue that
25 was dealt with at the very end of the last hearing, 08:30
26 which is the question of whether or not the conduct
27 alleged in this Inquiry amounts to a sexual misconduct,
28 as those words appear in the Council's Fitness to
29 Practise Sanction Guidance. I'm not going to repeat

1 what I said the last day, but for all of the reasons
2 that I set out, I say that it does fall within the
3 definition of that term as given in the guidance
4 document. That's the first point. But if I'm wrong
5 about that, then as a secondary point I say that the 08:30
6 definition of sexual misconduct in that document is
7 non-exhaustive, and the Committee is obviously entitled
8 to take a view as to whether this is or is not sexual
9 misconduct and I would urge upon it the conclusion that
10 what was involved here was sexual misconduct. 08:30

11
12 But then the third point is, and I suppose the most
13 fundamental point, is that the concept of sexual
14 misconduct is one introduced by the sanction guidance
15 document, it doesn't appear in the Act, and the law 08:31
16 only requires to you have regard how serious the
17 allegations are. So, I suppose, what I'm saying is
18 whether or not you regard it as falling within the
19 definition of sexual misconduct or not is, to some
20 degree, a secondary question; the fundamental issue you 08:31
21 have to decide is how serious the conduct here is. I
22 say it was sexual misconduct, but whether I'm right or
23 wrong about that I say it was very, very serious
24 misconduct, and the Committee should reflect that in
25 the sanction it imposes. So that's all I want to say 08:31
26 about that.

27
28 I do just want to also say something very brief about
29 anonymisation and privacy, Chair, but I'm happy to

1 leave that over, if you'd rather just deal with
2 sanction issues for the time being?

3 CHAIRPERSON: Yes, thank you, Mr. McDowell. I think
4 just in the interest of not dragging this out any
5 longer than it's necessary, if you could hold that over 08:31
6 then I'd appreciate that.

7 MR. McDOWELL: No problem.

8 CHAIRPERSON: Does that conclude your submissions on --

9 MR. McDOWELL: It does

10 CHAIRPERSON: Thank you very much. Ms. McNally, I'm 08:32
11 happy to hear from you, again I'm mindful of the fact
12 that we put you under time constraints the last day.
13

14 SUBMISSION BY MS. McNALLY:

15 08:32

16 MS. McNALLY: No problem at all. And firstly, I'm not
17 sure my solicitor has the capacity to use his
18 microphone, I think he may be here as a passive
19 attendee. I'd like just to apologise for the delay,
20 unforeseen difficulties with the flight, so apologies 08:32
21 to everybody on behalf of Witness B's team --

22 CHAIRPERSON: Thank you for that

23 MS. McNALLY: -- for the delay.

24

25 To paraphrase, no, I'm actually not going to repeat 08:32
26 myself. I've already stated what I had to say in
27 respect of submissions and I was hoping that the
28 Council would have some guidance for us in respect of
29 sexual misconduct. So no, I'm not actually going to

1 repeat myself. I've stated what I have to say in
2 respect of the sexual misconduct issue and I just await
3 your determination as to definitions, etc.
4

5 POINT OF CLARIFICATION FROM THE CHAIRPERSON:
6

7 CHAIRPERSON: Very good. Thank you for that. Then
8 just before I invite Mr. McGuinness to give the
9 Committee his advice, I just wanted to ask a question
10 of both parties, I alluded to this on the last day, the 08:33
11 issue of the social media postings on Vivastreet. I
12 was wondering, Mr. McDowell, in the first instance if
13 you could explain to us where you believe the relevance
14 of that evidence fits into the -- it's not one of the
15 allegations listed against Witness B? 08:33

16 MR. McDOWELL: Yes, and although although Witness A
17 gave evidence about it, it hasn't been proven that
18 Witness B had anything to do with that and it isn't
19 alleged that he'd anything to do with that, so in the
20 circumstances I don't think that that evidence from 08:33
21 Witness A is particularly relevant to your
22 deliberations.

23 CHAIRPERSON: Okay, thank you. That's very clear. I
24 presume, Ms. McNally, you've no further comments on
25 that matter? 08:33

26 MS. McNALLY: Other than I disagree with the use of the
27 phrase "particularly relevant," it's not relevant, it's
28 not before the Committee, full stop. It's not a
29 charge.

1 CHAIRPERSON: Thank you. Well, that certainly makes it
2 is a little bit easier for us. We can discard that
3 evidence. Okay. Then at this point I'll ask, if
4 there's no other matters, I should have asked you if
5 have any preliminary applications? I'm presuming that 08:34
6 you don't have anything further you wish to make either
7 side, but if you don't then I'll invite Mr. McGuinness
8 to give the Committee his advice.

9
10 PRELIMINARY APPLICATION BY MR. McDOWELL:

11
12 MR. McDOWELL: Just before Mr. McGuinness does that,
13 could I just mention, briefly, the privacy issue I
14 wanted to mention, and it is very, very brief.
15 Firstly, I hear, Chair, what you say about the existing 08:34
16 anonymisation ruling staying in place. Formally, I'm
17 renewing my application for the anonymisation of
18 witness B to be lifted, but I hear what you say so I'm
19 not going to press that point any further.

20
21 The second point is that on Day 4 of the Inquiry, I
22 mentioned, very briefly, a website that had come to the
23 Chief Executive's attention Unity Medex, and ultimately
24 I think on the sage advice of Mr. McGuinness, it was
25 decided that we just wouldn't go there, but the point I 08:34
26 was making was that there was a website that appeared
27 to be disclosing facts about this Inquiry, putting
28 those facts into the public domain. Since Day 4 we
29 have brought that matter to the attention of An Garda

1 Síochána and they have asked us formally to inform them
2 of the names of the complainant and the subject of the
3 complaint for the purpose of their investigation.
4

5 So, my application, Chair, is to that that the chief 08:35
6 executive be given permission to tell An Garda Síochána
7 Witness A's name and Witness B's name for the purpose
8 of an investigation of a complaint made by the Chief
9 Executive to An Garda Síochána concerning this website.

10 CHAIRPERSON: Thank you, Mr. McDowell. Ms. McNally, 08:35
11 do you have any comments on Mr. McDowell's application?

12 MS. McNALLY: No comments other than as long as it's
13 limited to what he has just asserted is relevant to An
14 Garda Síochána, which is literally names of A and B.

15 CHAIRPERSON: Thank you. 08:36

16 MR. McDOWELL: I confirm that that is the position.

17 CHAIRPERSON: Thank you very much, Mr. McDowell.

18 Mr. McGuinness, anything that you'd like to say in
19 respect of this application?
20

21 LEGAL ADVICE FROM THE LEGAL ASSESSOR:
22

23 LEGAL ASSESSOR: Chairman, obviously the Medical
24 Council fitness to practise decision relating to
25 anonymisation my allegation applies to the proceedings. 08:36
26 In my opinion and my view, it cannot restrain a citizen
27 from making a complaint to another organisation as
28 such. And the issue is posed by Mr. McDowell in terms
29 of the communication otherwise than in terms of the

1 business of the Medical Council, the communication of
2 the names to An Garda Síochána if that is what is
3 proposed. And I don't see that the order made by the
4 Fitness to Practise Committee is an order that
5 restrains the Chief Executive Officer in that regard. 08:37
6 That's my initial view on that subject to any view that
7 the Fitness to Practise Committee may hear from the
8 represented parties there is on that issue.

9 MR. McDOWELL: No, I have nothing to add to that.

10 CHAIRPERSON: Thank you, Mr. McDowell. And 08:37
11 Ms. McNally?

12 MS. McNALLY: Nothing to add to that, other than just
13 -- sorry that's kind of contradictory to say "nothing
14 to add to it" and then I proceed to talk, so my
15 apologies. The only thing I would say is that the 08:37
16 sufficiency of information is the giving of the two
17 names. An Garda Síochána have other matters that
18 they've previously been dealing with and that should be
19 sufficient. Beyond that, nothing else from the CEO, I
20 would submit, just the identities. 08:37

21 CHAIRPERSON: And Mr. McDowell has already confirmed
22 that that's all he's proposing to disclose.

23
24 So what I'll do is I'll just invite my colleagues to
25 return into private session for a moment, with 08:38
26 Mr. McGuinness, I'm not asking Mr. McGuinness us any
27 new advice but I just want to discuss it with my
28 Committee colleagues.

1 THE HEARING ADJOURNED BRIEFLY AND CONTINUED AS FOLLOWS:

2
3 RULING BY THE CHAIRPERSON:

4
5 CHAIRPERSON: Thank you for your patience. So having 08:41
6 discussed the matter, the Committee is satisfied that
7 nothing in our previous Order prevents the CEO from
8 disclosing the names of Witness A and Witness B to the
9 Gardaí.

10 MR. McDOWELL: Thank you. 08:41

11 CHAIRPERSON: Thanking you. So at this point I will
12 invite Mr. McGuinness to give the Committee his advice.

13
14 LEGAL ADVICE FROM THE LEGAL ASSESSOR:

15
16 LEGAL ASSESSOR: Thank you, Chair. 08:42

17
18 May I just commence by outlining what your function is
19 and what my function is. The Committee has now heard
20 all of the evidence that it will here in the Inquiry. 08:42
21 Its hearings came to an end, as the Committee will
22 know, by the admissions made on behalf of the
23 Registrant, Witness B. And the Committee has heard
24 final submissions, subject to anything that might be
25 said in relation to my advice to the Committee. 08:42

26
27 And the position is therefore, as outlined,
28 Mr. McDowell in his closing submissions; the duty of
29 the Committee at this point in time is to make a report

1 to the Medical Council pursuant to Section 69 of the
2 Medical Practitioners Act 2007 (as amended). And that
3 requires the Committee to report and to contain in its
4 report: (1) the nature of the complaint that resulted
5 in the Inquiry; (2) the evidence presented to the 08:43
6 Committee; (3) the Committee's findings as to whether
7 any allegation is proved whether on the grounds on
8 which the complaint was made, or on any other grounds
9 referred to in Section 57; and (4) if there is an
10 undertaking or consent under Section 67(1), the 08:43
11 measures included in the undertaking or consent; and
12 (b) may include such other matter relating to the
13 registered medical practitioner as the Committee
14 considers appropriate.

15
16 I might just comment and advise the Committee on each
17 of those matters, because an important issue has
18 arisen, arising from Mr. McDowell's submissions about
19 the nature of the Inquiry being inquired into; i.e.
20 whether it amounts to sexual misconduct or not. 08:43

21
22 So, that's the first issue that the Inquiry will have
23 to grapple with, if I put it that way; the nature of
24 the complaint that resulted in the Inquiry. Now, I
25 think it is appropriate to look at the text of the 08:44
26 Sanctions Guidance because it does deal with this issue
27 of alleged sexual misconduct under paragraph 9.3 and
28 Mr. McDowell opened that to the Committee in the course
29 of his closing submissions and I will read it into the

1 record so that there's no error on my part or anyone
2 else's part.

3
4 Paragraph 9.3.1:

5 "Sexual misconduct encompasses a broad range of conduct 08:44
6 and may include sexual assault, sexual abuse of
7 children, accessing or possessing child pornography if
8 or pursuing or forming a sexual or inappropriate
9 relationship with a patient or someone close to them.
10 Sexual assault also includes unnecessary or 08:45
11 non-consensual physical examination of patients."
12

13 Paragraph 9.3.2:

14 "Sexual misconduct often results in serious and
15 unacceptable harm to a patient or others, and in all 08:45
16 circumstances seriously undermines the public's
17 confidence in the profession.

18
19 It is particularly serious where a medical practitioner
20 has abused their position, particularly where findings 08:45
21 related to children or vulnerable adults, or where the
22 medical practitioner has been convicted of an offence,
23 where such factors are present, this is more likely to
24 indicate that the medical practitioner's registration
25 should be cancelled, unless there are significant 08:45
26 mitigating circumstances which result in a reduction of
27 the proposed sanction."
28

29 I think the end of the phrase is there.

1 So, Chairman, this is an issue for the Committee to
2 consider: what is the nature of the complaint that
3 resulted in the Inquiry? And I want to advise the
4 Committee from two particular perspectives. One as a
5 matter of principle and the other as a matter of 08:46
6 procedural propriety. And as a matter of principle,
7 both the Act and the Regulations and fair procedures
8 require that any person whose conduct is being inquired
9 into be made aware of what is alleged against them.
10 And whilst there is no dispute as to the facts which 08:46
11 are set out in the first seven complaints, there is no
12 explicit suggestion or allegation that any sexual
13 misconduct occurred or thereby occurred, or was
14 attempted in any of the Acts referred to in items (1)
15 to (7) of the Notice of Inquiry. 08:47

16
17 And from the point of view of procedural fairness, I
18 think I should advise the Committee of what it knows in
19 this regard. The characterisation of the allegations
20 was made by Mr. McDowell in his closing submissions. 08:47
21 And by that stage the Registrant, witness B, through
22 his counsel, had, as it were, held up the white flag of
23 surrender. So, the characterisation of the allegations
24 at the point in time it was made was made after the
25 Registrant had admitted the misconduct, not beforehand. 08:47
26 And my advice to the Committee: It would be a grave
27 risk of ignoring the sequencing of events were it to
28 consider that the Registrant had, as it were, pleaded
29 guilty to sexual misconduct at a time when the

1 characterisation of those acts had not been so
2 described either by explicit language or explicit
3 assertion in the charges, or at any stage previous to
4 that characterisation.

5
6 Mr. McDowell makes a secondary point -- well, his first
7 point was in fact that this alleged behaviour falls
8 within it. And I do want to advise the Committee as to
9 whether that is so or whether could be so.

10 Mr. McDowell, of course, refers to the first phrase of
11 paragraph 9.3.1 that it covers a broad course of
12 conduct, as it were. You've got a broad approach or a
13 broad cover, as it were, as to what comes within it.

14 And in construing - and this is non-statutory language,
15 it's not a statutory provision - the canons of
16 construction relating to legal provisions don't
17 necessarily apply, but what is included within 9.3.1 is
18 a clear designation of matters which are in the most
19 part clear criminal offences relating to sexual

20 misconduct of one type or another. And it brings
21 within the embrace obviously the issue of

22 doctor-patient relationships which border on the
23 criminal if not the criminal itself. And it's a
24 reasonable interpretation, and I'm advising the

25 Committee that it's a reasonable interpretation that
26 this type of sexual misconduct intended to be caught by
27 this provision relates to such matters and does not
28 extend to other matters.

1 Mr. McDowell made the second point that the definition
2 isn't exhaustive and it is clearly an allegation of
3 sexual misconduct because it's so broad that it comes
4 within it. And my advice to the Committee is, I hope,
5 relatively simple to understand on this issue.

08:51

6
7 The allegations are as writ in the Notice of Inquiry.
8 They are the matters that have to be inquired into.
9 And nothing further. And it's for the Committee to
10 construe them as misconduct - and it's admitted to be
11 misconduct - and the issue for the Committee is how
12 serious is the misconduct? And, in my submission, the
13 Committee will adjudicate on the seriousness of the
14 misconduct having regard to what is alleged in (1) to
15 (7) and what has been admitted, subject to all the
16 issues concerning mitigation, aggravation, etc, etc.

08:51

08:51

17
18 So, in my submission, in summary on this, the Committee
19 is not entitled, at this stage, the matters not having
20 been alleged to constitute a sexual misconduct, that
21 the Committee should not regard these matters as coming
22 within the definition of sexual misconduct which covers
23 much graver offences.

08:52

24
25 Now, I have no issue or entitlement to make any
26 submission or give any advice to the Committee about
27 how it should view the misconduct or how it should
28 construe what an appropriate sanction should be in
29 relation to that but obviously my advice doesn't in any

08:52

1 way detract from the fact that it is misconduct, as
2 admitted, and that it has been the subject matter of
3 extensive evidence from witness A as to its commission,
4 as to its consequences and as to its lasting impact
5 upon her. And it's a matter for the Committee to give 08:53
6 such weight to all or any to those matters as it thinks
7 fit, subject, of course, to its proper consideration in
8 relation to mitigation as put forward by Ms. McNally in
9 the matter.

10
11 Now, on the second part of Section 69, (ii) the 08:53
12 evidence presented to the Committee. The Committee
13 has, of course, heard the evidence over the previous
14 nine sessions and again it's neither appropriate, nor
15 is it my entitlement for me to make any submission on 08:54
16 the evidence. The only advice I can give is it's the
17 Committee's duty to weigh the evidence carefully, to
18 take into account such matters as appear proper, and to
19 give due weight to what it regards as the most relevant
20 factors. And how it reports upon those is a matter for 08:54
21 the Committee, about which I say nothing further.

22
23 (iii) of Section 69, the Committee's findings as to
24 whether any allegation is proved. Now, I do have to
25 formally advise the Committee that any findings made in 08:54
26 relation to misconduct must reach the standard of
27 beyond a reasonable doubt which is equivalent to the
28 criminal standard, but it applies in all professional
29 regulatory settings, that an allegation of misconduct

1 has to be proven to that standard. The Committee has,
2 in that regard, obviously the evidence of witness A
3 coupled now with the admissions made on behalf of
4 Registrant B and my advice to the Committee; the
5 Committee is entitled to, find beyond a reasonable
6 doubt, that the misconduct alleged has occurred.

08:55

7
8 Its duty is also to provide reasons for its findings
9 and it's a matter for the Committee as to how deep it
10 feels it needs to go into stating the reasoning in that
11 regard and, again, that's a matter for the Committee
12 itself to determine how and what it puts in its report.

08:55

13
14 In relation to (iv) of Section 69, if there is
15 undertaking or consent under Section 67, the measure
16 including undertaking or consent, there's been no such
17 undertaking or consent either sought or required in
18 that regard, and the Committee will so report no doubt.

08:56

19
20 Sub-paragraph (b) provides:

08:56

21
22 "May include such other matters relating to the
23 registered medical practitioner as the Committee
24 considers appropriate."

25
26 And it is under this heading that the Committee
27 traditionally conveys its recommendation as to
28 sanction. And it's a matter of law - and I think
29 everyone here understands - that the sanction is not

1 imposed by the Committee, rather it's a recommendation
2 to the Medical Council as to what sanction it might
3 consider imposing. These are set out in Section 71 of
4 the Act 2007 and I will just draw them to your
5 attention at this point in time. Section 71(a):

6
7 "An advice or admonishment, or a censure, in writing;

8
9 (b) a censure in writing and a fine not exceeding
10 €5,000;

11
12 (c) the attachment of conditions to the
13 practitioner's registration, including restrictions on
14 the practice of medicine that may be engaged in by the
15 practitioner;

16
17 (d) the transfer of the practitioner's registration to
18 another division of the register;

19
20 (e) the suspension of the practitioner's registration
21 for a specified period;

22
23 (f) the cancellation of the practitioner's
24 registration;

25
26 (g) a prohibition from applying for a specified period
27 for the restoration of the practitioner's
28 registration."
29

1 The issue in this case in relation to sanctions has
2 been guided by decisions of the courts in the first
3 instance, along with the development of the sanctions
4 document of 2024 that the Council will have regard to
5 and that the Fitness to Practise Committee should also 08:58
6 have regard to.

7
8 The jurisprudence starts with the decision of
9 Mr. Justice Finlay in the Murphy case, as to the
10 purpose of disciplinary sanctions. I'm going to read a 08:58
11 short extract from the publication by Mills et al.
12 entitled Disciplinary Procedures in the Statutory
13 Professions (second edition) of 2023. This is
14 paragraph 9.17:

15
16 "One question that may reasonably be asked concerns the
17 purpose of disciplinary sanctions: Are they punishing
18 registrants or do they have a wider function? The
19 considerations at play when it comes to the imposition
20 of sanctions in the Irish regulatory setting were set 08:59
21 out in the High Court judgment in Murphy..."

22
23 And this is a quotation from the judgment:

24
25 "First, I have to have regard to the element of making 08:59
26 it clear by the order of the High Court to the medical
27 practitioner concerned the serious view taken of the
28 extent and nature of his misconduct so as to deter him
29 from being likely, on resuming practise, to be guilty

1 of like or similar misconduct. Secondly, it seems to
2 me to be an ingredient - though not necessarily the
3 only one - that the order should point out to other
4 members of the medical profession the gravity of the
5 offence of professional misconduct. And, thirdly, this 08:59
6 must be, to some extent, material to all of these
7 considerations. There is the specific element of
8 protection of the public which arises where there is
9 misconduct. I have as well an obligation to assist the
10 medical practitioner with as much leniency as possible 08:59
11 in the circumstances."
12

13 That's end of the quotation. These principles are set
14 out, Chairman and members of the Committee, in your
15 sanctions document with which you will be very familiar 09:00
16 with. They were more recently considered in the case
17 of Hermann, the 2010 case, where Mr. Justice Charleton
18 noted the stepwise manner in which sanctions can and
19 indeed must be approached by a regulator. Again,
20 Chairman and members of the Committee, this is a matter 09:00
21 set out in your sanctions document that the Committee
22 and the Medical Council, when deciding the imposition
23 of a sanction, should start at the lowest rung of
24 possible sanctions and give consideration to whether
25 that is applicable or not, having regard to all of the 09:00
26 evidence, the submissions and matters raised in
27 mitigation or aggravation. And Mr. Justice Charleton
28 had this to say:
29

1 "The scheme of the Act therefore involves, in its
2 mildest form, correction as a first gradation. In such
3 cases, the Medical Council may admonish or fine a
4 doctor, or issue a written censure. Some of these
5 incidents may involve bringing a doctor to his or her 09:01
6 senses. It is clear that there is an overlap in the
7 more serious of these milder cases with a necessity to
8 mark, in an inappropriate way, the nature of the
9 misconduct or lack of competence through attaching
10 conditions to registration, and restricting the 09:01
11 practise by the doctor of medicine.

12
13 Where a doctor is not shown to be independently safe in
14 the practice of one form of medicine, a transfer to
15 another division is appropriate. This kind of response 09:01
16 rarely (if ever) overlaps with the earlier division and
17 moves into the more serious category of cases where a
18 suspension of registration, cancellation of
19 registration, and a prohibition for a substantial time
20 against a practitioner applying for re-registration can 09:02
21 be involved. I see no reason why, in the most serious
22 cases, this cannot be a lifetime ban on the practice of
23 medicine. Correction, rehabilitation and punishment
24 mark out the potential approaches by the Medical
25 Council within these three major (but sometimes 09:02
26 overlapping) category of appropriate response to
27 misconduct or lack of competence. In the mildest cases
28 of admonishment, little danger may be involved to the
29 public. When that category shades into the instances

1 where it is necessary to issue a censure in writing or
2 to attach conditions to registration while restricting
3 the practice of medicine that may be engaged by the
4 practitioner, the category of misconduct or lack of
5 competence has become more serious.

09:02

6
7 It is clear from the scheme of the Act of 2007 that the
8 approach by the Medical Council should involve
9 protecting the public and reassuring them as to
10 standards that medical practitioners will, at all
11 times, uphold, requiring that medical practices by
12 those who are properly trained and appropriately
13 qualified to safely engage in areas of medicine where
14 they hold themselves out to be experts. In that, and
15 other more serious category, the protection of the
16 public is paramount to the approach of the Medical
17 Council. The reputation of the medical profession
18 must, in those instances, be upheld. This exceeds an
19 importance where the misconduct is serious, the
20 regrettable misfortune that must necessarily be visited
21 upon a doctor "

09:03

09:03

09:03

22
23 Mr. Justice Charleton also referred in the same case to
24 the experience of the Medical Council and he said this,
25 reported at page 312 of the Mills book:

09:03

26
27 "The members of the Committee have ready access to
28 relevant precedence and are, therefore, in a position
29 the assess both the nature of the conduct complained of

1 where it fits as to category, gravity and type of
2 severity of penalty that has been established as a
3 appropriate by prior decisions. I have no doubt that
4 the Medical Council should take this approach as a
5 general guide to the imposition of penalties."

09:04

6
7 Now one of the guiding underlying principles to the
8 imposition of sanctions is that they should be
9 proportionate, practicable, and reasonable. And
10 obviously that depends upon what the Committee have
11 decided as to the severity of the misconduct, or
12 otherwise. In many cases the issue of patient safety
13 or competence will be a major factor. In this
14 instance, leaving aside allegation number 8 relating to
15 adhering to Medical Council competence provision over a
16 period of five years, there doesn't appear to be any
17 other element relating to either patient safety or
18 professional competence alleged in the other
19 allegations.

09:04

09:05

20
21 Now, the Committee has been directed by Mr. McDowell to
22 the provisions of the Sanctions Guidance relating to
23 issues of mitigation. They're referred to in the Mills
24 publication at page 340 and it's not given as an
25 exhaustive list of mitigating factors or possible
26 mitigations factors, but it notes that these are
27 commonly advanced. And it begins as follows:

09:05

09:06

28
29 "(a) insight and contrition;

1 (b) cooperation with the investigation and inquiry
2 process;
3 (c) evidence of remediation or performance or conduct;
4 (d) adherence to principles of good practice, that is
5 to say save for the conduct complained of overall, the 09:06
6 Registrant's practice is of a high standard;
7 (e) no previous history;
8 (f) whether the events was an isolated and/or
9 uncharacteristic one;
10 (g) the level of experience of the Registrant; 09:06
11 (h) whether although the error was a failing, it was
12 not a morally culpable one;
13 (i) the overall circumstances of the complaint,
14 including the context in which it occurred such as
15 questions of understaffing, lack of resources, lack of 09:06
16 supervision, language barriers, level of experience;
17 (j) where other Registrants were also involved in the
18 events in question but where they have not faced
19 complaints or disciplinary hearings;
20 (k) personal or professional matters particular to the 09:07
21 Registrant, particularly where those factors have been
22 address and resolved;
23 (l) references and/or testimonials from appropriate
24 parties such as employers or colleagues, particularly
25 where time has elapsed since the incident complained 09:07
26 of, where those testimonials demonstrate consistent
27 high standards of practice that a court would claim to
28 have remediated any failings."
29

1 obviously in that regard, the Committee will have to
2 give due consideration to the evidence of the four
3 witnesses called on behalf of the Registrant, witness
4 B, as to their knowledge of him which evidence was
5 given on the last occasion that the Committee sat. I
6 make no submissions in relation to that matter, it's a
7 matter for the Committee to assess the relevance (or
8 otherwise), the weight (or otherwise), and the
9 significance (or otherwise) as the Committee sees fit,
10 having considered the evidence.

09:07

09:08

11
12 It is, of course, the duty of the Committee in dealing
13 with the issue of sanctions, dealing with the issue of
14 mitigation and/or aggravation to express its reasons,
15 and to explain what it has taken into consideration and
16 what it has not taken into consideration.

09:08

17
18 Mr. McDowell also referred to potential aggravating
19 factors. These are dealt with both in the Guidance and
20 in the Mills textbook at paragraph 9.122 -- perhaps I
21 should read the paragraph before that. Paragraph
22 9.121:

09:08

23
24 "It should be noted that while insight may be a
25 mitigating factor, a marked lack of insight and/or
26 contrition into conduct on the contrary may be an
27 exacerbating factor, especially where that lack of
28 insight runs the risk of leading to recurrence of the
29 conduct complained of. It is a common feature of

09:08

1 judgments on questions of cancellation or erasure, or a
2 factor in cases where a committee or court must choose
3 between a less onerous sanction and a more onerous one,
4 that the lack of insight on the part of the Registrant
5 into his acts, and a lack of willingness therefore to 09:09
6 change the course of his conduct will weigh in the
7 balance against the Registrant when considering
8 sanction.

9
10 In The Law Society -v- O'Sullivan, McDermott J. 09:09
11 specifically cited the fact that respondent's solicitor
12 had no insight into his unfair and unreasonable
13 behaviour towards his client, and showed no regret for
14 any of his actions, nor did he offer any indication
15 that such behaviour might not be repeated in the future 09:09
16 as the basis for an imposed sanction that the solicitor
17 would be restrained from practising other than under
18 the supervision of another for at least ten years.

19
20 9.122. Other aggravating factors may include: 09:09

- 21 (a) repeat disciplinary offences, particularly where
22 the failings have similar factual matrices;
23 (b) whether the matter at issue demonstrated repeated
24 failings affecting a number of patients/clients
25 (c) whether there was (particularly in the healthcare 09:10
26 and legal settings) and abuse of trust placed in the
27 Registrant;
28 (d) persistent denial or attempt to blame others; and
29 (e) failure to abide by previous conditions that were

1 imposed by the Regulator or by undertakings that were
2 previously given in relation to other complainants."

3
4 I make no submission, nor am I entitled to make any
5 submission, as to what the Committee should decide in 09:10
6 the way of assessing or balancing any factors of
7 mitigation or aggravation.

8
9 The Committee is entitled to have regard to the whole
10 of the course of proceedings. The Committee is 09:10
11 entitled to have regard to the conduct of the
12 Registrant at all stages, in so far as it is relevant.
13 The Committee is entitled to consider any matters of
14 mitigation put forward. And the Committee will also no
15 doubt consider the submissions made on behalf of the 09:11
16 CEO. The decision is for the Committee and again, just
17 to make it clear to the parties I take no part in any
18 discussion of any substantive issues in that regard.

19
20 I think, Chairman, that all I have said is all I want 09:11
21 to say there for the moment and subject to any other
22 submissions that may be made on that, that's my advice
23 to the Committee.

24 CHAIRPERSON: Thank you very much, Mr. McGuinness, for
25 that advice. I will pause and ask my Committee 09:11
26 colleagues have they any questions or anything that
27 needs to be clarified?

28 MS. DEVINS: No, thank you, Chairman.

29 MS. DAVIN-POWER: No, thank you, Chair.

1 CHAIRPERSON: Likewise. So then, Mr. McDowell, do you
2 have any comments on Mr. McGuinness's advice?

3
4 REPLY BY MR. McDOWELL

5
6 MR. McDOWELL: Just one, Chair, and it relates to this
7 issue about -- sorry I should say I agree with the vast
8 majority of what Mr. McGuinness said. Just on the
9 question of sexual misconduct, as I understood Mr.
10 McGuinness's advices to you, he suggested that the CEO 09:12
11 ought to have mentioned sexual misconduct in the
12 allegations framed in the Notice of Inquiry or that
13 there might be some unfairness to the Registrant in
14 this case arising from the fact that -- that sexual
15 misconduct was only referred to after the admissions 09:12
16 had been made and in the course of submissions on
17 sanction.

18
19 I should just say, with respect to Mr. McGuinness, I
20 don't agree with that. The function of the Notice of 09:12
21 Inquiry is to set out the facts on which the Chief
22 Executive relies and those are set out clearly in the
23 Notice of Inquiry in this case.

24
25 And then to say, how those facts amount to a wrong and 09:12
26 the wrongs are those set out in the Act. So, for
27 example, professional misconduct, poor professional
28 performance, breach of provision of the Act and so on.
29 So, had it been the case that the Chief Executive had

1 drafted the Notice of Inquiry and said that the facts
2 alleged amounted to sexual misconduct, Ms. McNally
3 would have had a very fair complaint that the phrase
4 "sexual misconduct" is not one found in the Act and it
5 is not a wrong which the Chief Executive is entitled to 09:13
6 level in a Notice of Inquiry. And if the Chief
7 Executive is instead confined to the stated grounds of
8 complaint in the Act which as I say professional
9 misconduct, poor professional performance and so on.

10
11 And I think that when you look at the other terms used
12 in the same context in the Sanctions Guidance document
13 that becomes clear. So section 9 of the Sanctions
14 Guidance document deals with cases where a more serious
15 sanction may be required and those are at: 09:13

16
17 "9.1 dishonesty; 9.2 abuse of professional position;
18 9.3 sexual misconduct; 9.4 drug or alcohol use or
19 disorder".

20
21 And I don't think it could fairly be said if the Chief
22 Executive wants to say at the sanction hearing stage
23 that the Registrant has "abused their professional
24 position", to use the phrase at 9.2, that that must be
25 made clear in a Notice of Inquiry or indeed that that 09:14
26 must be the sort of central thrust of the Chief
27 Executive's case during the course of the Inquiry. The
28 Chief Executive's job is to present the facts and seek
29 to establish those facts, if proven, amounted to

1 professional misconduct or poor professional
2 performance.

3
4 And having done that, the Chief Executive is then
5 entitled to look at the Sanction Guidance document and 09:14
6 say "the nature of this misconduct is of a nature which
7 the Sanctions Guidance document requires to be taken
8 particularly seriously, for example, misconduct of a
9 sexual nature".

10
11 So, with respect, I say that I am entitled to pursue
12 this issue of sexual misconduct at this stage. That
13 the Committee is entitled to consider whether this case
14 is a case of sexual misconduct within the meaning of
15 that term as it appears in the Sanctions Guidance 09:14
16 document. And when considering that, you can look at
17 the definition of "sexual misconduct" set out in the
18 Guidance document. I have already made my submissions
19 to you that definition is met but obviously that is a
20 matter for the Committee to decide itself. 09:15

21
22 But as I said earlier and stepping back from it, where
23 I do agree with Mr. McGuinness is that fundamentally I
24 think the Committee's job is to decide how serious this
25 misconduct is and whether sexual or not and to impose a 09:15
26 sanction which is proportionate to the seriousness of
27 the misconduct identified.

28
29 So there isn't actually a huge degree of difference I

1 think between myself and Mr. McGuinness but I just
2 depart from him on that narrow point.

3 CHAIRPERSON: Thank you very much, Mr. McDowell.
4 Mr. McGuinness is anything you want to say in response
5 to Mr. McDowell?

09:15

6
7 REPLY BY THE LEGAL ASSESSOR

8
9 LEGAL ASSESSOR: I'd simply make this point, it is
10 based upon the wording of Section 9.3.1 which describes
11 "acts" which and are clearly sexual acts of conduct in
12 the form of the variety of things that could be done by
13 one person to another and none of those acts as such
14 form any part of the allegations in 1 to 8 and it is
15 being brought in then under a much broader brush the
16 first phrase of the section. And, in my submission
17 that was intended to deal with a completely different
18 category of conduct which doesn't necessarily include
19 or texting or messaging or phone calls don't in any
20 natural sense come within the scope of the conduct
21 which is addressed in that sanction. That is all I
22 have got to say about it.

09:15

09:16

09:16

23 CHAIRPERSON: Thank you very much, Mr. McGuinness. And
24 now, Ms. McNally, do you have any comments on
25 Mr. McGuinness's advice?

09:17

26
27 REPLY BY MS. McNALLY

28
29 MS. McNALLY: No, I agree 100% with Mr. McGuinness's

1 advice. I do not believe that the definition of the
2 sexual misconduct, as far as it goes, within the
3 guidance document refers to sexual assault or sexual
4 behaviour of a criminal standard and that is basically
5 what the CEO is now trying, belatedly, to encapsulate
6 as part of the charges against B.

09:17

7
8 It was never proceeded with along those lines and
9 certainly the admissions by the Registrant did not
10 include any admissions in respect of such sexual
11 misconduct, assault or any sexual behaviour or criminal
12 category or one that would fall within a criminal
13 category. And it is the wording of the section itself
14 has to be looked into which is the wording I had asked
15 you to look at previously.

09:17

09:17

16
17 So, no, I agree 100% with Mr. McGuinness in respect of
18 that. It is the horse has already bolted and now try
19 and bring that horse back into the field saying that is
20 what we held our hands up to, that is certainly not
21 what the Registrant held his hands up to.

09:18

22 CHAIRPERSON: Thank you very much, Ms. McNally.

23
24 Before the Committee retires, can I just ask either
25 counsel have you anything further you would like to say
26 to the Committee before we retire to make our
27 deliberations?

09:18

28 MR. McDOWELL: No, Chair, other than just to thank you
29 and your colleagues for the care and attention you paid

1 to this very long running case because I know it hasn't
2 been -- it hasn't been as easy perhaps some other
3 inquiries are. So, thank you very much and thank you
4 also to Ms. McNally for her courtesy during the
5 hearing.

09:18

6 CHAIRPERSON: Thank you. And Ms. McNally anything
7 further arises?

8 MS. McNALLY: Nothing to add other than thank you for
9 the time and again our apologies for the delay this
10 morning, I know how busy everybody is but thank you for
11 listening to us.

09:18

12 CHAIRPERSON: Thank you. So, the Committee will now
13 retire to make its deliberations in respect of the
14 allegations presented.

15 MR. McDOWELL: Chair, can I just ask is it intended to
16 reconvene today or is that the end of today's hearing?

09:19

17 CHAIRPERSON: I expect we will return to give you the
18 Committee's findings in respect of the allegations. We
19 have the advantage that admissions have been made, so
20 we certainly won't have a detailed report of the
21 reasonings why we make the decisions we make. But if
22 you permit us some time to make our deliberations, we
23 will come back and deliver that finding. I am
24 conscious this is a public Inquiry and I would like the
25 findings to be formally read into the record this
26 morning. I don't expect that we will be very long, we
27 will have to take much longer to consider the issue of
28 sanctioning and the Committee has already agreed we are
29 going to meet in person to make sure that we pour over

09:19

09:19

1 the 10 days of the transcript and make sure that we
2 don't miss anything out in considering the issue of
3 sanction.

4 MR. McDOWELL: Thank you, Chair.

5 CHAIRPERSON: Thank you. So we will now go into
6 private session, thank you.

09:20

7
8 THE HEARING ADJOURNED BRIEFLY AND CONTINUED AS FOLLOWS:

9
10 DECISION OF THE COMMITTEE

11
12 CHAIRPERSON: Thank you very much all for your
13 patience. So, having carefully considered the evidence
14 that we've heard over the last number of days of this
15 Inquiry, the Committee is now satisfied that it can
16 make its findings in light of the admissions made and
17 based on the evidence adduced by the CEO.

10:33

18
19 That evidence includes the evidence of witness A, the
20 complainant, who gave clear, consistent and coherent
21 evidence which she didn't resile from when
22 cross-examined.

10:33

23
24 A report that we will provide the specific details of
25 support of why we made the findings we did, but for the
26 purpose of this public inquiry I'd like to just read
27 the allegations which have all individually been found
28 proven as to fact beyond a reasonable doubt.

10:33

1 So Allegation 1:

2
3 "On one or more occasions during the period between in
4 or around June 2016 and in or around July 2016,
5 attempted to make contact and/or contacted and/or
6 attempted to approach and/or approached Witness A in
7 circumstances where the doctor knew or ought to have
8 known that:

9
10 i. This was inappropriate and/or this was not in
11 connection with your employment; and/or

12
13 ii. This was unwanted and/or uninvited, and

14
15 iii. /or that on or around 15 April 2016, you had been
16 requested by one or more members of staff and/or the
17 Medical Manpower Manager at Mayo University Hospital
18 ('the Hospital') not to contact and/or approach
19 Witness A."

20
21 That allegation has been proven as to fact beyond
22 reasonable doubt.

23
24 Allegation 2:

25
26 "Notwithstanding one or more request(s) made by one or
27 more members of staff and/or the Medical Manpower
28 Manager at the Hospital on or around 15 April 2016 not
29 to contact and/or approach Witness A, on one or more

10:35

1 occasions during the period between in or around 31
2 March 2017 and in or around 1 April 2017, he one or
3 more text messages and/or WhatsApp messages and/or made
4 one or more phone calls to Witness A, in circumstances
5 where you knew or ought to have known this was
6 inappropriate and/or unwanted."

7
8 That allegation has been proven as to fact beyond
9 reasonable doubt.

10:35

10
11 Allegation 3:

12
13 "Notwithstanding one or more request(s) made by one or
14 more members of staff and/or the Medical Manpower
15 Manager at the Hospital on or around 15 April 2016 not
16 to contact and/or approach Witness A and/or a
17 request(s) made by Witness A on or around 1 April
18 2017 not to contact her, on one or more occasions
19 during the period between in or around 7 July 2017 and
20 in or around 20 May 2019, he sent one or more text
21 messages and/or WhatsApp messages and/or made one or
22 more phone calls to Witness A, in circumstances where
23 he or ought to have known it was inappropriate and/or
24 unwanted."

10:36

25
26 That allegation has been proven as to fact beyond
27 reasonable doubt.

28
29 Allegation 4:

1
2 "Notwithstanding one or more request(s) made by one or
3 more members of staff and/or the Medical Manpower
4 Manager at the Hospital on or around 15 April 2016 not
5 to contact and/or approach Witness A and/or a
6 request(s) made by Witness A on or around 1 April
7 2017 not to contact her, on one or more occasions
8 during the period between in or around 18 May 2019 and
9 in or around 20 May 2019, he sought to meet Witness A,
10 in circumstances where he knew or ought to have known
11 it was inappropriate and/or unwanted."
12

13 That allegation, Allegation 4, has been proven as to
14 fact beyond reasonable doubt.
15

10:37

16 Allegation 5:
17

18 "Notwithstanding one or more request(s) made by one or
19 more members of staff and/or the Medical Manpower
20 Manager at the Hospital on or around 15 April 2016 not
21 to contact and/or approach Witness A and/or a
22 request(s) made by Witness A on or around 1 April 2017
23 not to contact her and/or a request made by Witness A
24 and/or An Garda Síochána on or around 20 May 2019 not
25 to contact Witness A, on one or more occasions during
26 the period between 21 May 2019 and 19 July 2020, he
27 sent one or more text messages and/or WhatsApp messages
28 and/or made one or more phone calls to Witness A in
29 circumstances where he knew or ought to have known it

1 was inappropriate and/or unwanted."

2
3 That allegation has been proven as to fact beyond
4 reasonable doubt.

5
6 Allegation 6:

7
8 "On or around 1 April 2017, sent one or more text
9 messages and/or WhatsApp messages to Witness B for the
10 purposes of trying to establish contact with
11 Witness A, in circumstances where he knew or ought to
12 have known it was inappropriate and/or unwanted."

13
14 Allegation 6 has been proven as to fact beyond
15 reasonable doubt.

16
17 Allegation 7:

18
19 "On or around 22 January 2020, sent one or more text
20 messages and/or WhatsApp messages to Mr. Shane Russell
21 for the purposes of trying to establish contact with
22 Witness A, in circumstances where he knew or ought to
23 have known it was inappropriate and/or unwanted."

24
25 That allegation has been proven as to fact beyond
26 reasonable doubt.

27
28 Allegation 8:

1 "Failed to comply with the Medical Council's
2 professional competence requirements in respect of the
3 following professional competence periods and in doing
4 so he contravened Section 94(1) and/or (2) of the
5 Medical Practitioners Act 2007 and/or Rule 1 and/or
6 Rule 2 and/or Rule 4 and/or Rule 5 of the Rules for the
7 Maintenance of Professional Competence (No.1) (S.I. 171
8 Of 2011):

- 9
10 i. 01 May 2015 to 30 April 2016; and/or
11 ii. 01 May 2016 to 30 April 2017; and/or
12 iii. 01 May 2017 to 30 April 2018; and/or
13 iv. 01 May 2018 to 30 April 2019; and/or
14 v. 01 May 2019 to 30 April 2020."

15
16 This allegation has been proven as to fact beyond
17 reasonable doubt.

18
19 So, having made these findings on the factual
20 allegations, the Committee also finds proven as to fact 10:40
21 beyond reasonable doubt that on the grounds of
22 professional misconduct, it is found that in respect of
23 one or more of the allegations and/or sub-allegations
24 at 1 to 8 above, individually and/or in combination,
25 and/or cumulatively he engaged in conduct which doctors 10:40
26 of experience, competence good repute consider
27 disgraceful or dishonourable, and/or in respect of one
28 or more of the allegations or sub-allegations 1 to 8,
29 individually and/or in combination and/or cumulatively,

1 he engaged in conduct connected with his profession in
2 which he seriously fell short by omission or commission
3 of the standards expected among doctors. That
4 allegation ground of professional misconduct has been
5 found proven as fact beyond reasonable doubt.

10:41

6
7 And on the ground of poor professional performance, it
8 is found that in respect of allegation or
9 sub-allegations at 8 (i) to (v) individually and/or in
10 combination and/or cumulatively, he failed to meet the
11 standards of competence, whether in knowledge and skill
12 or the application of knowledge and skill, or both,
13 that can reasonably expected from a registered medical
14 practitioner practising medicine of the kind practised
15 by him. That allegation of poor professional
16 performance been found proven as fact beyond reasonable
17 doubt.

10:41

10:41

18
19 It is found that in respect of the allegation or
20 sub-allegations 8(i) to (v), individually and/or in
21 combination and/or cumulatively he contravened one or
22 more provisions of the Medical Practitioners Act 2007
23 (as amended), and/or one or more provisions of the
24 regulations and rules made under this Act.

10:42

10:42

25
26 So that concludes the Committee 's findings in respect
27 of the matters in the Notice of Inquiry.

28
29 As we've said already, the Committee will next continue

1 its deliberations and consider the matter of sanction
2 based on the submissions we've heard from the two
3 parties and the advice of Mr. McGuinness. We will
4 prepare a report for the Council. That report will be
5 made available to both parties such that in advance of 10:43
6 the attendance for a Section 71 hearing at Council, the
7 parties will know the Committee's full deliberations
8 and be able to make submissions to the Council on that
9 basis.

10
11 As I've said previously, I think, but just to
12 re-emphasise the point that a Section 71 hearing of
13 Council not a reopening of the case. The findings made
14 by this Committee so the only issue in front of the
15 Council will be the sanction that is to be applied. 10:43

16
17 I hope I've done justice to the deliberations of my
18 Committee colleagues. Mr. McGuinness, if there's
19 anything that I've omitted to point out you might just
20 draw that to my attention? 10:43

21 LEGAL ASSESSOR: No, Chairman.

22 CHAIRPERSON: Thank you.

23
24 So I think all that remains to say is to thank
25 everybody who has taken part in this Inquiry over the 10:43
26 ten days this Inquiry has proceeded over the course of
27 13 months but the public hearing part of this Inquiry
28 has now concluded with the findings of fact.

1 The matter will then move to Council to consider the
2 matter of sanction in due course. And, as I say, the
3 parties will have had the benefit of seeing our report
4 to Council in advance of that meeting.

5
6 Any matter arise either counsel you wish to address to
7 us?

8 MR. McDOWELL: No, thank you, Chair.

9 CHAIRPERSON: Thank you. And Ms. McNally?

10 MS. McNALLY: I was just wondering if you could give 10:44
11 any kind of time indication as to when we might -- I am
12 not trying to put anyone under any pressure but when
13 might we expect the report?

14 CHAIRPERSON: Well, I can tell you it won't be before
15 the 23rd June because we are meeting on that date in 10:44
16 person. This Committee is going to meet on that date
17 to continue our deliberations.

18 MS. McNALLY: Thank you.

19 CHAIRPERSON: But we are keen, as I think everybody is,
20 that this matter gets brought to a conclusion. It has 10:44
21 the index of events happened many many years ago and
22 this has been hanging over both witness B and indeed
23 the complainant, witness A, for a considerable period
24 of time we don't wish to draw it out any longer than is
25 necessary. 10:45

26 MS. McNALLY: Thank you for that much obliged.

27 CHAIRPERSON: Thank you. So thank you all, everybody
28 who has supported the Inquiry to date and this matter
29 is now adjourned.

1 MR. McDOWELL: Thank you.
2 CHAIRPERSON: Thank you.
3 MS. McNALLY: Thank you very much.

4

5 THE HEARING THEN CONCLUDED

6

7

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