

MEDICAL COUNCIL OF IRELAND

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

RE: DR. [REDACTED]
REGISTRATION NO: 405670

APPLICATION BEFORE THE FITNESS TO PRACTISE COMMITTEE
(IN PRIVATE) VIA ZOOM
ON WEDNESDAY, 29TH OCTOBER 2024 - DAY 3

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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. SARA O'SULLIVAN
SOLICITOR
MESSRS. FIELDFISHER
SOLICITORS

FOR THE REGISTRANT :

MR. GERARD COLLERAN BL

INSTRUCTED BY :

ROBINSON SOLICITORS
SUITE 136
THE CAPEL BUILDING
MARY'S ABBEY
DUBLIN 7

ALSO PRESENT :

MR. ALEXANDER MURRAY
PROFESSIONAL STANDARDS SECTION OF
THE MEDICAL COUNCIL

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THE HEARING RESUMED ON WEDNESDAY, 29TH OCTOBER 2024, AS
FOLLOWS:

CHAIRPERSON: So good morning to you all and welcome to today's inquiry. This inquiry is taking place remotely by way of the TrialView conferencing platform.

In the event that any active participants' wifi signal weakens, the TrialView system will endeavour to maintain the image and/or audio of the person who is speaking at that particular time. Full service may resume when your wifi signal improves. If you encounter this technical difficulty please let me know, as it may be necessary to pause the inquiry to allow you to refresh your connection.

Now in the event that any active participant loses connection entirely, it obviously would be necessary to pause the hearing until the participant has rejoined the hearing. If this happens, please notify the administrator or a member of the Professional Standards staff immediately. I note that the administrator's details have been provided to the parties in advance. Depending on when the participant lost audio or visual, it may be necessary to repeat submissions or evidence.

I would ask that all active participants activate their cameras and mute their microphone until they need to speak, in order to avoid any interference during the inquiry. Active participants should have their cameras active

1 throughout the hearing.

2
3 One exception to this rule: Please note that some of
4 the committee members here today are experiencing some
5 wifi issues and they may have to mute their cameras to 10:20
6 conserve their connection. You can be assured of their
7 full attention throughout the entirety of this inquiry.

8
9 Please note that parties are not permitted to make
10 recordings, either video or audio, or to take any 10:20
11 pictures during the course of the hearing.

12
13 Access to documents at the remote hearing is restricted
14 to those who are permitted to view them, ordinarily at
15 an in-person inquiry. Observers, members of the 10:20
16 public, are not permitted to access or view documents.
17 If, for some reason -- sorry I'm just wondering,
18 Mr. Colleran, if you could just mute your microphone
19 please? Thank you.

20 MR. COLLERAN: My apologies, Chair. 10:21

21 CHAIRPERSON: That's quite all right. If, for some
22 reason, it is necessary -- if, for some reason, it's
23 the case that documents are available to views in error
24 observers are required to immediately notify the
25 administrator or a member of the Professional Standards 10:21
26 staff of such an occurrence.

27
28 Now this is an inquiry by the Fitness to Practise
29 Committee under part 8 of the Medical Practitioners Act

1 of 2007. This is an inquiry into allegations of
2 professional misconduct and/or poor professional
3 performance and/or a contravention of a provision of
4 the Medical Practitioners Act of 2007 including a
5 provision of any regulations or rules made under this 10:21
6 act on the part of a medical practitioner who is being
7 anonymised.

8
9 This is day 3 of the inquiry which opened on the
10 17th April 2024 and continued on the 18th April 2024. 10:21
11 The Committee assembled here today comprises the same
12 members that heard day one and day two evidence.

13
14 In the intervening period since the inquiry was
15 adjourned the Fitness to Practise Committee has heard a 10:22
16 number of applications in respect of the conduct of
17 this inquiry. I would like to remind participants
18 that on day one of this inquiry, the Committee acceded
19 to three applications. This Committee has also acceded
20 to an anonymisation request from the registrant who 10:22
21 will be henceforth known as Witness B.

22
23 Although this inquiry is proceeding remotely, and in
24 public, the complainant will be anonymised as Witness A
25 and the registrant as Witness B. In the event that 10:22
26 either witness is inadvertently referenced by their
27 actual name or in a way that might identify them,
28 parties to this inquiry are ordered not to disclose
29 that identity, for example, in their reporting. If

1 words are used inadvertently they may be changed in the
2 transcript.

3
4 The inquiry opened on 17th April with witness B
5 representing himself. He was absent, due to illness, 10:23
6 on the afternoon of day one and did not appear on day
7 two. The Committee decided to proceed with caution
8 recognising that some of CEO's witnesses may have to be
9 recalled for the purposes of cross-examination.

10 10:23
11 Given the passage of time since day two, let's do some
12 introductions again. The members of the Fitness to
13 Practise Committee here today. My name is Paul Harkin,
14 I am the Chair of this Inquiry Committee, I am not a
15 medical practitioner. Other members of the Committee 10:23
16 include Ms. Mary Devins, who is also not a medical
17 practitioner; and Dr. Mary Davin-Power, who is a
18 medical practitioner. With the Committee is
19 Mr. Diarmaid McGuinness, Senior Counsel. He is the
20 legal assessor to the Committee. And on the previous 10:23
21 day, I told you the role of the legal assessor, I won't
22 repeat that.

23
24 In accordance with section 65 of the act this inquiry
25 is being held in public. 10:23

26
27 And finally, before I invite appearances on behalf of
28 both parties, the definition of professional misconduct
29 and/or poor professional performance are as set out in

1 the Medical Council's Guide to Ethical Conduct and
2 Behaviour and the Medical Practitioners Act of 2007.

3
4 So I will pause now and take appearances from the
5 parties for the transcript. 10:24

6 MR. MCDOWELL: Thank you, Chair. Hugh McDowell is my
7 name, I am a barrister, appearing on behalf of the
8 Chief Executive, and I am instructed by Ms. O'Sullivan
9 of Fieldfisher Solicitors.

10 CHAIRPERSON: Good morning to you, Mr. McDowell. 10:24

11 MR. COLLERAN: Good morning, Chair. My name is Gerard
12 Colleran, Barrister, and I am instructed by Robinsons
13 Solicitors and I appear for the registrant.

14 CHAIRPERSON: Good morning to you, Mr. Colleran.

15 10:24
16 I think I said on the previous day that the applicable
17 standard of proof, the Committee is bound by rule 29 of
18 the rules made by the Medical Council on the 6th August
19 of 2020. Under section 11 of the Medical Practitioners
20 Act of 2007 regarding the conduct of these proceedings 10:24
21 to apply the criminal standard of proof, i.e. beyond
22 reasonable doubt.

23
24 So before we proceed, I will ask if either the CEO or
25 the counsel for the registrant has any preliminary 10:25
26 applications that they wish to make at this time ?

27 MR. MCDOWELL: Chair, there is an issue that I want to
28 raise, and I have told Mr. Colleran I am going to raise
29 this issue. And I think it is an issue that should be

1 raised in private, for reasons that will become clear
2 when I raise it. So...

3 CHAIRPERSON: Okay. Then with the assistance of the
4 Executive, perhaps we could just clear the public view
5 such that we are in private session.

10:25

6
7 PRIVATE SESSION

8
9 CHAIRPERSON: I am happy now to hear the application.
10 And actually, before I do, I just spot you -- I didn't
11 spot earlier when I was introducing, I notice Witness B
12 is in attendance. I just want to say good morning to
13 you, Witness B, you are very welcome and thank you for
14 your appearance today.

10:32

15 MR. MCDOWELL: Before I begin, could I just ask --
16 because this is important -- that Mr. Murray confirm
17 that witness A is not present and can't hear or see
18 what is happening?

10:33

19 MR. MURRAY: That's correct, Mr. McDowell.

20
21 SUBMISSION BY MR. McDOWELL:

10:33

22
23 MR. MCDOWELL: Thank you.

24
25 So, Committee Members, the position is, as you know,
26 witness A is appearing this morning for the purpose of
27 being cross-examined on behalf of witness B. And on
28 Friday evening at twenty to eight we received by e-mail
29 from Robinson Solicitors a file consisting of ten

10:33

1 pages, which we assume are documents which witness B
2 intends -- or, sorry, which Robinsons and Mr. Colleran
3 intend, to put to witness A during the course of
4 cross-examination.

5
10:33
6 And in respect of one of those documents, having
7 reviewed the matter over the weekend, the CEO has very
8 serious concerns about the authenticity of the
9 document. So, in other words, the CEO's view is that
10 there is a very real possibility that the document 10:34
11 provided is not a genuine document. And I mean it is
12 a matter for the Committee as to whether it wants to
13 hear from me as to why the CEO takes that view. But
14 the reason I raise it now is because the CEO would have
15 a very serious issue with the document being presented 10:34
16 to witness A as a genuine document in circumstances
17 where a doubt exists over it's authenticity. And
18 I mean it is obviously not an easy sort of issue for
19 the Committee to navigate, particularly because I
20 haven't explained to the Committee what the concern or 10:34
21 the doubt that the CEO has relates to. But one way in
22 which this matter might be resolved would be if witness
23 B were to give evidence now for the sole purpose of
24 establishing the authenticity of this document. And,
25 if he establishes its authenticity, then the 10:34
26 cross-examination can proceed and, if he doesn't
27 establish its authenticity, then I mean I don't think
28 it could be put to the witness in those circumstances.
29 So, that is the concern I'm raising before the

1 Committee, and I am happy to go into the detail of the
2 concerns the CEO has in due course. But I should say
3 that it is a matter that the CEO takes extremely
4 seriously. Because if it is the case that a false
5 document had been prepared for the purpose of this 10:35
6 hearing that, it seems to the CEO, would constitute a
7 criminal offence under the Perjury Act and could have
8 very serious repercussions for the person who prepared
9 the document. So I don't want to say anything more
10 about that for the time being. So I am in the 10:35
11 Committee's hands as to how to proceed.

12
13 But the unfairness that I perceive is that if the
14 document turns out to be false but it's presented to
15 Witness A as a genuine document, she may say something 10:35
16 that she shouldn't say in circumstances where she's
17 being told the document is a real document when it is
18 not in fact a real document and that would obviously
19 imperil the integrity of this hearing.

20 CHAIRPERSON: Thank you for that, Mr. McDowell. I am 10:36
21 happy to hear from Mr. Colleran.

22
23 SUBMISSION BY MR. COLLERAN:

24
25 MR. COLLERAN: This document, Chair, is being presented 10:36
26 as an authentic document. I have some strong
27 reservations about Mr. McDowell's request, as if to
28 switch the burden of proof that Witness B should be put
29 to proof on this matter prior to it being put to any

1 witness. I am not -- I would be anxious to hear the
2 legal assessor on this one, but it strikes me that the
3 burden of proof is manifestly shifted in those
4 circumstances. And that is, I believe, inappropriate
5 and unwarranted in circumstances where this is a
6 hearing where the criminal threshold of proof is to be
7 applied. So, that's -- I oppose this application.

10:37

8 MR. MCDOWELL: Can I respond on that briefly, Chair?

9 CHAIRPERSON: Please do, yeah.

10
11 SUBMISSION BY MR. McDOWELL:

10:37

13 MR. MCDOWELL: So that submission is founded on a
14 fundamental misconception as to how the law works and
15 how evidence works. Because if a document is being put
16 to witness A, it must be proven by witness B at some
17 point, and it is not a reversal of the burden of proof
18 to require a witness who puts a document to the
19 opposing side to prove the authenticity of that
20 document. In no sense is that a reversal of the burden
21 of proof, it is what happens in every case where a
22 document is put to the other side. The only slightly
23 unusual feature -- or the only slightly unusual thing
24 that I am canvassing now is the possibility that
25 witness B would do that before witness A gives
26 evidence. So it's purely a matter of sequencing,
27 there is no reversal or disturbance at all with the
28 burden of proof. As Mr. Colleran says, the burden of
29 proof to prove my case rests with me at all times and

10:37

10:37

10:38

1 it's the criminal standard. But if Mr. Colleran
2 intends to introduce a document he and his client must
3 prove that document.
4

5 SUBMISSION BY MR. COLLERAN:

10:38

6
7 MR. COLLERAN: In response to that: Documents and or
8 messages texts and WhatsApps have been introduced prior
9 in this hearing -- and I mean during this hearing
10 already up-to-date, and there has been no desire on the 10:38
11 part of the CEO to prove those documents in advance of
12 they being presented to the hearing.
13

14 This is a similar example of where a document will be
15 sought to be introduced, which is authentic, and we are 10:39
16 now being asked to go out of sync, as it were, to prove
17 the document in advance of putting it to a witness. I
18 think that's highly irregular and uncalled for and
19 unnecessary in the circumstances and I oppose it.
20

10:39

21 SUBMISSION BY MR. MCGUINNESS:

22
23 MR. MCDOWELL: Again, sorry at the risk of a game of
24 tennis, again Mr. Colleran is simply incorrect in his
25 submission because every text message that has been 10:39
26 introduced so far proven has been proven by a witness
27 who sent or received it. So there is no analogy
28 whatsoever between the present position and the
29 documents introduced by the CEO. Every text message

1 that we have adduced in evidence so far has been proven
2 in the ordinary way.

3 CHAIRPERSON: Okay, well at this point I might invite
4 Mr. McGuinness to give the Committee the benefit of his
5 considerable advice and experience on these matters. 10:40

6
7 LEGAL ASSESSOR'S ADVICE TO THE COMMITTEE:

8
9 LEGAL ASSESSOR: Thank you, Chairman. This is an
10 issue relating to the conduct of trials and the 10:40
11 presentation of evidence that has arisen ever since
12 trials, as we know them, have been invented.

13
14 The first thing to say is that a document produced does
15 not become evidence of its content at all, unless it is 10:40
16 either a document which is authorised by law to become
17 admissible without proof of it's contents or without
18 proof of its making, or unless it is proved in the
19 ordinary way.

20 10:40
21 Now the ordinary way is for the maker of the document
22 to prove it in whatever way is relevant and admissible
23 in itself. If a document purports to have been
24 received by a person, it normally requires evidence
25 that it has been sent from a person before it becomes 10:41
26 admissible as to the truth of its contents. So a
27 document containing a message, for example, may be
28 admissible simply as proof of the fact that it has been
29 received by the person. That of itself does not give

1 rise to proof as to by whom it was sent. That can be a
2 relevant issue where it is either intended to or
3 necessary to prove the contents of the message as being
4 a message sent from the person who was consigned it.

10:41

6 Now that sounds complicated but in practice what
7 occurs, with strict adherence to the proper practice in
8 relation to the putting of documents, is that if this
9 were a trial in real life, as it were in a courtroom or
10 another hearing such as the Medical Council, where all
11 the parties were there, counsel or solicitor for one of
12 the parties could produce a document without proving it
13 but without reading the contents and hand it to the
14 witness for the witness to read. And the witness
15 could be asked in relation to the document produced:

10:42

10:42

16 'Was that a document or a message sent by you or
17 authored by you in some capacity'? And if the witness
18 said 'yes' the document could be admitted in evidence
19 because it would have been proven by the witness
20 sitting in the witness box. On the other hand, if the
21 document is denied as having been created by the person
22 who is giving evidence, and does not agree that it was
23 a document or message from that person, the document
24 isn't admitted into evidence because it has not at that
25 stage been proven to have come from that witness either
26 by the denial of the witness in the witness box or by
27 proof of the making of it by the witness by some other
28 means.

10:42

10:43

29 So it's a common misconception amongst practitioners

1 that a party represented by solicitor or counsel can
2 produce a document and make it admissible by simply
3 putting it to a witness and opening the contents and
4 asserting that the contents are thereby admissible.
5 They do not become thereby admissible and they do not
6 become a proven admissible or relevant document unless
7 they have been agreed to by the witness.

10:44

8
9 Now that of course does not necessarily mean the end of
10 the fate of the admissibility of the document. The
11 document at the stage when the person who is
12 propounding the case that the document was authored by
13 somebody else, when that person comes to give evidence,
14 the document can be attempted to be proven at that
15 stage and, if so, can become admissible evidence.

10:44

16
17 So the issue is here at the moment it would seem that
18 if a document were put to Witness A, without being
19 opened to the Committee, and the witness agrees that's
20 her document it could become therefore admissible. If
21 it is not admitted, the document nor its contents
22 become admissible, but remain to be proven thereafter
23 in any proper way.

10:45

24
25 Now, I should draw a distinction between putting one's
26 case and putting documents in one's case. And there is
27 a distinction here between questions orally put on
28 behalf of a person represented by solicitor and counsel
29 and documents put by such a counsel.

10:45

1
2 For example, if a witness is alleged to have done or
3 said something they can be asked, 'did you do that' --
4 assuming it is a fact in issue and a relevant issue --
5 the witness can be asked 'did you do that? Did you say 10:45
6 that? Did you write this? Did you say this in a form
7 in which the recipient has received it'? So, for
8 example, Mr. Colleran has referred to messages on
9 WhatsApp, without reference to any record, it is in my
10 advice to the Council it is permissible 10:46
11 cross-examination of counsel for witness B to say, 'did
12 you send me a message on the blank day of blank saying
13 this to me in your message'? And witness A can give a
14 response to it.

15 10:46
16 If witness A denies that, it doesn't necessarily follow
17 that any document relating to it becomes admissible
18 because the common law position is that the document
19 isn't admissible unless and until it is proven as to
20 contents. It is a matter, therefore in my advice to 10:47
21 the Committee, a matter for a later stage if that is
22 reached, if other persons give evidence as to the
23 receipt of any message or document as to how they prove
24 that and whether they can prove that.

25 10:47
26 So, in my submission, arguably it is premature for the
27 Committee to determine it at this stage but I think it
28 is probably better that it should determine it having
29 regard to the submissions of the parties.

1
2 And if I could invite you, Chairman, to invite the
3 legal representatives whether they wish to respond to
4 the Committee in relation to the advice that I have
5 given so far?

10:47

6 CHAIRPERSON: Thank you, Mr. McGuinness. Mr. McDowell,
7 do you have any response to Mr. McGuinness's advice?

8
9 SUBMISSION BY MR. MCDOWELL:

10
11 MR. MCDOWELL: No. So I think that Mr. McGuinness has
12 accurately set out the law and I agree with it. But I
13 suppose in light of what he said, I just want to maybe
14 give the Committee a better understanding of exactly
15 what this application relates to.

10:47

10:48

16
17 So one of the documents included in this file of ten
18 documents that we received from Robinsons appears to
19 be, on its face, an exchange of WhatsApp messages
20 between witness A and witness B that -- with the date
21 given of the 30th April 2019. And I presume that what
22 Mr. Colleran is going to do is say to witness A that --
23 is going to put it to her that this represents an
24 exchange of messages between his client and witness A.
25 And the Committee will immediately appreciate that the
26 messages themselves, if they were real, if they did
27 take place, took place over five years ago. And my
28 concern is that witness A could be led to a position
29 where she concedes that this exchange of messages may

10:48

10:48

1 have taken place and she can't remember or that she
2 can't specifically say whether or not it took place,
3 and that would be in response to what on its face
4 purports to be an authentic document showing this
5 exchange of messages.

10:49

6
7 And if, when I cross-examine witness B in due course,
8 it is established that the document isn't a real
9 document, we will still be left with this possible or
10 partial concession made by witness A that an exchange
11 of messages may have occurred. And, in my submission,
12 that evidence, that would be an unsatisfactory position
13 for the Committee to find itself in where in essence a
14 concession was elicited from a witness based on a false
15 premise. So that's the specifics of the concern that
16 the CEO has and that is the aspect of the integrity of
17 the process that I am seeking to protect.

10:49

10:49

18
19 So notwithstanding Mr. McGuinness's advice, I think my
20 application before the Committee remains that this
21 document should require to be proven before it is put
22 to witness A because, otherwise, there is a very real
23 risk that unsafe or unreliable evidence will be
24 elicited from her.

10:50

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

10:50

26 Mr. Colleran, would you like to comment either on that
27 submission or on Mr. McGuinness's advice to the
28 Committee?

29 SUBMISSION BY MR. COLLERAN:

1
2 MR. COLLERAN: I accept the broad swathe of the advice
3 from Mr. McGuinness. And it strikes that this is an
4 attempt by the CEO to, as it were, protect a witness
5 under cross-examination, and that is not permissible. 10:50
6 We are putting this document forward as an authentic
7 document in the normal manner of cross-examination put
8 to a witness who has given evidence and is now subject
9 to cross-examination. That's the height of it. And
10 it would be a matter for the witness to assent or 10:51
11 dissent from the authenticity of this document. And,
12 thereafter for the Committee, subject to any further
13 evidence that may come from witness B, to decide on the
14 matter one way or the other. That's my submission.
15 CHAIRPERSON: Thank you, Mr. Colleran. Any questions 10:51
16 from my Committee colleagues in respect of what you
17 have heard from Mr. McGuinness?
18 MS. DAVIN-POWER: No, Chairman. Other than that we
19 should retire to consider it.
20 CHAIRPERSON: Yes, thank you. So we will do that next, 10:51
21 we will go into a private session with Mr. McGuinness
22 to deliberate on this application.
23
24 Mr. McGuinness won't be giving us any new advice. If
25 any matter arises, or requires him to give us advice, 10:51
26 we will come back into the main hearing room so that
27 both parties have an opportunity to hear that advice
28 and to question and comment on that advice. Thank you.
29 MR. MCDOWELL: Thank you, Chair.

1
2 THE HEARING THEN ADJOURNED FOR A BRIEF RECESS AND
3 CONTINUED AS FOLLOWS:
4

5 DECISION OF THE COMMITTEE

10:55

6
7 CHAIRPERSON: Thank you very much. Thank you all for
8 your patience. Having carefully considered the
9 submissions of both parties and the legal advice from
10 Mr. McGuinness, the Committee declines the CEO's
11 application to call witness B to prove a document that
12 is proposed to be put to witness A.

11:08

13
14 It will be outside the normal proceedings for a Fitness
15 to Practise Committee and not a step that would
16 normally be required. There are no compelling
17 reasons offered as to why it would be necessary to
18 justify deviation from our normal practice. So in the
19 balance, to be fair to all parties, we feel it is
20 appropriate for us to proceed with the
21 cross-examination of witness A.

11:08

11:08

22 MR. MCDOWELL: Thank you, Chair. I wonder could I just
23 mention two matters then, one of which arises from that
24 decision.

11:09

25
26 Just for sake of transparency, I want everybody,
27 including Mr. Collieran, to be aware that this morning,
28 before the Committee sat, I discussed the document in
29 question with witness A. I didn't provide her with any

1 indication that the CEO harboured any concern about its
2 authenticity and I made no suggestion of that kind to
3 her and this conversation took place in the presence of
4 my instructing solicitor. But, just lest there be any
5 doubt, I did show the document to witness A and 11:09
6 indicate to her that it was likely that that document
7 would be put to her in the course of cross-examination.
8 But, as I said, I said nothing to her about its
9 authenticity.

10
11 And then the second thing just to remind the Committee 11:09
12 of is that quite some time ago now, before the inquiry
13 even commenced proper in April of this year, an order
14 was made by a callover committee to facilitate the
15 online equivalent of a screen for witness A, such that 11:10
16 witness B would not be able to see her during the
17 course of her evidence, but of course witness B lawyers
18 will be able to see her. And I understand that
19 TrialView are in a position to put that technological
20 fix in place this morning and I am just drawing it to 11:10
21 your attention.

22 CHAIRPERSON: Thank you very much, Mr. McDowell. We
23 are happy to note those two points. Can I ask
24 Mr. Murray does TrialView need a few moments to set
25 that "online screen" or? 11:10

26 MR. COLLERAN: I am just wondering, Chair, if it is
27 appropriate to have the view of Mr. McGuinness in terms
28 of whether or not that document should have been shown
29 to a witness subject to cross-examination.

1 CHAIRPERSON: Happy to invite Mr. McGuinness to give
2 his opinion on that.

3 LEGAL ASSESSOR: Chairman, thank you. Can you hear me?

4 CHAIRPERSON: Yes, indeed

5
6 LEGAL ASSESSOR'S ADVICE TO THE COMMITTEE:

7
8 LEGAL ASSESSOR: Yes. This obviously was a document
9 provided by Mr. Colleran's solicitors on behalf of his
10 client to the CEO and it is not unrealistic or 11:11
11 unreasonable to expect the CEO to have taken steps to
12 discuss it or disclose it in any way. I'm not sure
13 that Mr. Colleran is in any way implicitly criticising
14 Mr. McDowell from the point of view of coaching a
15 witness, I don't think it goes that far at all, and in 11:11
16 my submission there is nothing improper in the fact of
17 the document having been shown to her.

18 MR. COLLERAN: Very well. Just in terms of
19 applications, I have sent -- or my solicitors have
20 sent -- over a document which is the statement given by 11:11
21 Witness B to Gardaí in Tullamore. That is a statement
22 dated the 21st May 2019. And I will be making a brief
23 application to have that document excluded, for stated
24 reasons.

25 CHAIRPERSON: So do you wish to can make that 11:12
26 application now?

27 MR. COLLERAN: Are we still in private or do we not?

28 CHAIRPERSON: We are still in private so do you wish us
29 to go into public?

1
2 APPLICATION BY MR. COLLERAN:

3
4 MR. COLLERAN: It doesn't require privacy. I will be
5 guided by that. 11:12

6
7 This is an application to have the statement excluded
8 on the basis that there is manifest difficulties in
9 terms of the number of pages. The handwritten document
10 of this statement starts on page 1, and then the next 11:13
11 page is page 4. And it is those words on page 1 and
12 page 4 of the handwritten document that have been put
13 into evidence at page 53 of day two by counsel for the
14 CEO. And, therefore, I am saying there is concern
15 that this document is not complete, is faulty, and is 11:13
16 not correct, as a statement made by witness B and,
17 therefore, on that basis should be excluded from
18 consideration.

19 CHAIRPERSON: Thank you, Mr. Colleran. Mr. McDowell,
20 do you wish to respond to that application? 11:14

21 MR. MCDOWELL: well, regrettably, I have no notice of
22 the application being made whatsoever. So I am dealing
23 with that on the hoof. I wonder could Mr. Colleran
24 just repeat the reference he made to the transcript of
25 the Inquiry? 11:14

26 CHAIRPERSON: So that was day two, page 53. So maybe
27 in consideration of the time we have had this morning,
28 it might be appropriate to just adjourn for 15 minutes
29 or so to give parties an opportunity to familiarise

1 themselves with that and we will hear the application
2 proper.

3 MR. COLLERAN: we have sent the documents over to your
4 office for consideration.

5 CHAIRPERSON: would 15 minutes be sufficient,
6 Mr McDowell?

11:14

7 MR. MCDOWELL: well, sorry, if the Committee wish to
8 rise to take a break, that is no problem. I am
9 actually in a position to deal with it now.

10 CHAIRPERSON: okay, well then please do.

11:14

11
12 SUBMISSION BY MR. MCDOWELL:

13
14 MR. MCDOWELL: So insofar as it said that it has been
15 sent over to the office, it was sent to Fieldfisher at
16 11:08 this morning. So it was sent six minutes ago.

11:14

17
18 But what is being referred to is a statement made by
19 Witness B to Saoirse Noonan of Tullamore Garda Station
20 on the 21st May 2019. And what I read into the record
21 was a typed version of that statement, and I understand
22 that the objection taken is that the typed version does
23 not reflect the handwritten notes. The Committee will
24 recall that I told on a previous occasion that
25 Garda Noonan will be called to prove this statement in
26 due course. So I would have thought that if there is a
27 discrepancy between the typed statement and the
28 handwritten statement, that that is a matter that
29 Mr. Colleran can take up in cross-examination of Garda

11:15

11:15

1 Noonan.

2
3 But I don't see, in circumstances where the document
4 hasn't even been formally proven yet by a witness, who
5 I said is going to come, I don't understand how the 11:15
6 Committee could, at this juncture, take a decision to
7 exclude it or declare the document to be inadmissible.
8 MR. COLLERAN: I take Mr. McDowell's point. It may be
9 my mistake when I -- I was under the impression that
10 the garda was not going to be called. 11:16

11 CHAIRPERSON: Thank you. And you are working under
12 something of a disadvantage, Mr. Colleran, you are
13 having to rely on the transcript ,so I recognise that.
14 But certainly on day two we did discuss the fact that
15 Garda Noonan would be required to prove the document as 11:16
16 evidence.

17 MR. COLLERAN: It does however give me difficulty in
18 respect of consideration of this document as against
19 the cross-examination of witness A.

20 CHAIRPERSON: So do you need some time to reflect on 11:16
21 that before you commence the cross-examination of
22 witness A?

23 MR. COLLERAN: well our basic point, Chair, is that the
24 statement as read into the record at the said page, is
25 not the statement as given by witness B for the reasons 11:17
26 that in the original handwritten statement two pages
27 are missing. And that is the sum total of it. And,
28 therefore, what would be addressed in terms of
29 cross-examination of witness A would, I am instructed,

1 not be the complete statement. And therefore I was
2 seeking, in those circumstances, to have it set aside.

3 CHAIRPERSON: I take that point but witness A has no --
4 there's no position to talk about the authenticity or
5 the completeness of the garda statement. 11:17

6 MR. COLLERAN: I agree but witness A has already stated
7 that it is that statement that spurred her to make the
8 complaint to Gardaí and to the Medical Council.

9 CHAIRPERSON: I take that point but the facts still
10 remain that that garda statement has not yet been 11:18
11 admitted as evidence. So your request to have it
12 excluded as evidence seems to me to be somewhat
13 premature.

14 MR. COLLERAN: Very well. That may well be the case
15 and I will be guided by advice from Mr. McGuinness. 11:18

16 CHAIRPERSON: well I think that is a good call, it is
17 always very useful for us to take the advice of
18 Mr. McGuinness on board. So, Mr. McGuinness, could
19 you assist us?

20 11:18
21 LEGAL ASSESSOR'S ADVICE TO THE COMMITTEE:

22
23 LEGAL ASSESSOR: Yes, Chairman. The transcript for
24 this day that we have been referred to, page 53 of day
25 two, I think clearly shows that Mr. McDowell informed 11:18
26 the Committee that it will be proven in due course by
27 Garda Ronan and I presume that remains the case.

28
29 The relevance of it at the time was asserted to be,

1 because the contents of it were shown to witness A and
2 she made a statement about it, and she was asked about
3 it in that context. It seems to me that any issue that
4 Mr. Colleran may have as to whether portions of it were
5 only put or other portions ought to have been put in my 11:19
6 submission to the Committee doesn't affect the
7 admissibility of the portions about which witness A
8 gave evidence, subject to anything that may emerge on a
9 cross-examination of Garda Ronan.

10
11 So in my advice to the Committee the issue of
12 adjudicating on the propriety of the admission of this
13 is a matter that ought to be reserved to when Garda
14 Ronan comes to give evidence and any cross-examination
15 in relation to the original of the document takes 11:20
16 place.

17 MR. COLLERAN: I don't take issue with anything
18 Mr. McGuinness said.

19 MR. MCDOWELL: Nor do I, Chair. And I wonder, my
20 solicitors don't seem to be able to lay their hands on 11:20
21 the handwritten version of those notes. So I am not
22 sure if we have them or not, but I wonder if
23 Mr. Colleran's solicitors could oblige us by sending us
24 a handwritten version of the notes if an objection
25 along those lines is to be taken ? 11:20

26 MR. COLLERAN: They have been sent.

27 MR. MCDOWELL: Thank you, thank you.

28 CHAIRPERSON: Thank you. So do I understand then,
29 Mr. Colleran, that you are not pressing this

1 application?
2 MR. COLLERAN: I am not pressing this application at
3 this point, no
4 CHAIRPERSON: Thank you. And obviously it is open to
5 you to do so later on. 11:20
6 MR. COLLERAN: Thank you.
7 CHAIRPERSON: So then I think at this stage it would
8 just keep us all fresh, I am going to propose that we
9 just adjourn for 15 minutes to allow everybody to get a
10 comfort break and to allow TrialView the opportunity to 11:21
11 establish the online screen facility that is necessary
12 for witness A, such that we can proceed with witness
13 A's cross-examination after break.
14
15 So it is now, according to my clock, 11:17. So in 15 11:21
16 minutes time I suggest we meet back here and we will
17 resume with the cross-examination of witness A.
18 MR. MCDOWELL: Thank you, Chair.
19 CHAIRPERSON: Thank you, all.
20 11:31
21 THE HEARING THEN ADJOURNED FOR A SHORT RECESS AND
22 CONTINUED AS FOLLOWS:
23
24 PUBLIC SESSION
25 11:36
26 CHAIRPERSON: Thank you, Mr. Murray. Can I confirm
27 that we are now back in public session?
28 MR. MURRAY: Yes, we are back in public session.
29 CHAIRPERSON: Thank you. We are now happy to proceed

1 to the cross-examination of witness A, if witness A can
2 be --
3 DR. DAVIN-POWER: I can't hear.
4 CHAIRPERSON: You can't hear, Dr. Mary.
5 MR. McDOWELL: I can hear you, Chair. 11:36
6 CHAIRPERSON: Just bear with us a second, please.
7 Dr. Mary, can you hear me?
8 DR. DAVIN-POWER: Have you now, have you now.
9 CHAIRPERSON: Grand, thank you. As I just said, we are
10 back in public session and we are now going to proceed 11:36
11 with the cross-examination of witness A. So if witness
12 A could be recalled, please.
13 MR. MURRAY: Good morning, witness A, you might just
14 need to activate your camera and unmute your microphone
15 please. Yes. 11:37
16 CHAIRPERSON: First of all, good morning and welcome
17 back, witness A. Thank you for making yourself
18 available on a third day --
19 MR. COLLERAN: Chair, I would like to advise you that
20 it appears that witness B is able to see witness A and 11:38
21 I would like to advise you of that.
22 CHAIRPERSON: Okay. So can I ask the TrialView
23 representatives we're going to place a screen in place
24 so that witness B could not see this witness, can that
25 be arranged please ? 11:38
26 MR. MURRAY: Yes, Chair. It might be best if witness A
27 turns off her camera for the moment.
28 MR. McDOWELL: So, Chair, I think we are in a position
29 to proceed.

1 MR. COLLERAN: Yes, I'll proceed and I don't see
2 witness A at this stage [inaudible - audio feedback].

3 MR. MCDOWELL: I also think witness B needs to turn off
4 their microphone.

5 CHAIRPERSON: If I could ask all parties to mute your 11:43
6 microphones please with the exception of witness A.
7 There is a slight buzz but I think we can proceed. So
8 once again, witness A, good morning and welcome again
9 to the third day of your evidence. Thank you for
10 making yourself available. 11:43

11
12 As you know, you had applied to have yourself screened
13 from the registrant in this matter and we have been so
14 advised that that has now been effected so that he
15 should not be in a position to see you. 11:43

16
17 Just to let you know that the registrant, who is the
18 subject matter of this complaint, has sought and has
19 been granted anonymity. So even though this
20 proceeding -- so that we will be referring to them as 11:43
21 witness B, and if you could refer to him to him as
22 witness B in your responses please.

23
24 So even though this inquiry is proceeding in public,
25 for the benefit of those in the public gallery, both 11:44
26 witness A and witness B should not be identified. And
27 we ordered that no reporting of witness A or witness
28 B's name be effected. If it happens that by accident
29 someone makes an inadvertent reference to either

1 individual's name, it will not be recorded on the
2 transcript. And once again we ask that members of the
3 press do not report either identity.
4

5 Also you will see on your screen, witness A, that 11:44
6 witness B is represented today. So witness B's counsel
7 is Mr. Colleran and he will be taking you through the
8 cross-examination. So I will hand you over to
9 Mr. Colleran. For your clarity, Mr. Colleran can see
10 you. 11:44

11 MR. COLLERAN: I am afraid I can't actually, Chair.

12 CHAIRPERSON: Oh, you can't, can you not? So we may
13 have to pause for a few moment then for our TrialView
14 moderators to effect this. I can see all parties with
15 the exception of witness B. TrialView colleague, could 11:45
16 you effect it such that Mr. Colleran can see witness A,
17 please?

18 MR. MURRAY: Yes, Chair.

19 CHAIRPERSON: while that is happening, witness A, just
20 to say Mr. Colleran is counsel for witness B and he 11:45
21 will take you through his questions on your evidence
22 from the previous days.
23

24 Once again, to avoid interference, could parties mute
25 your microphones please when you are not speaking? 11:47
26 Let's try that again, Mr. Colleran, can you see witness
27 A?

28 MR. COLLERAN: Yes, Chair, I can

29 CHAIRPERSON: well I am happy to hand you over to

1 Witness A. And once again, Witness A, thank you for
2 your attendance today.

3 THE WITNESS: Thank you

4
5 WITNESS A, WAS CROSS-EXAMINED BY MR. COLLERAN AS
6 FOLLOWS:

11:48

7
8 1 Q. MR. COLLERAN: Good morning, Witness A. Now it's my
9 job to have a look at the evidence presented by you at
10 the earlier hearings. If there is any question that I
11 put to you that is in any way unclear, please ask me to
12 clarify and, similarly, refer to the Chair who will ask
13 me to clarify, if necessary.

11:48

14
15 I am the barrister for the registrant in this matter,
16 Witness B. And I will be taking you through the
17 evidence and putting certain matters to you in the
18 course of this cross-examination. This is not to add
19 any extra stress to anybody's load already, it is
20 merely to go through the cross-examination process.

11:49

11:49

21
22 So, for starters, Witness A, you worked in Mayo
23 University Hospital in Castlebar in the first six
24 months of 2016, isn't that correct? And you have gone
25 through that evidence with counsel for the CEO
26 previously?

11:50

27 A. Yes.

28 2 Q. And during your time there you became acquainted with
29 Witness B?

1 A. Ehm, he was a member on the team, I wouldn't say I was
2 an acquaintance.

3 3 Q. Yes, but he became known to you?

4 A. Yeah.

5 4 Q. And during that time, and very early on, it became 11:50
6 clear that you weren't going to get on, would that be a
7 fair statement?

8 A. Well, in the first few months of the job I just did
9 what any intern would do in the team, I didn't suspect
10 anything untoward until I started getting unusual calls 11:50
11 outside of work and unusual text messages. An
12 essentially I felt they were inappropriate and I
13 flagged them with my senior and the HR which, you know,
14 I think is what any professional would do in that
15 circumstance. 11:51

16 5 Q. Yes. But on an interpersonal basis you weren't getting
17 on anyway, would that be correct in saying that?

18 A. There wasn't really any sort of interaction outside of
19 the group.

20 6 Q. Yeah. 11:51

21 A. So it wasn't that we weren't getting on, it was just
22 mainly that he wasn't around, and when he was around
23 mostly it was in a group context. Aside from maybe
24 being in a situation where I was oncall with him and I
25 would have to ask him things directly, or if I was the 11:51
26 only member of the team and so was he, the other two
27 were away or post call, then I would have to ask him
28 directly something about a patient. It was all very
29 brief so I really didn't have much time to form much of

1 an opinion before he started making inappropriate
2 messages, you know, there was very little that I had to
3 go on.

4 7 Q. I understand that sometimes people don't get on and
5 this is one of the examples of that, isn't that right? 11:52

6 A. Well, I didn't go out of my way to get on or not get on
7 with him so...

8 8 Q. No, I am not saying that. Yes, of course. I am not
9 assigned responsibility, witness A. But, at any rate,
10 you approached Dr. Lee, Consultant Lee, about what you 11:52
11 regarded as inappropriate texts, is that right?

12 A. Yes.

13 9 Q. And I can't possibly, or nobody could possibly,
14 confront every single sentence of evidence that you
15 have already given. But I will hit, as it were, the 11:52
16 highlights. And one of those highlights would be that
17 you allege that witness B asked you to marry him
18 effectively?

19 A. Yes, and actually witness B referred to this in a
20 letter to the Irish Medical Council during the process 11:53
21 of this, you know, Fitness to Practise, that he had
22 done the right thing by me by asking me to marry him.
23 But, yes, he did in text messages ask me.

24 10 Q. Yeah. And he would say that that was an attempt at --
25 failed sarcasm that you were, let us say, squabbling, 11:53
26 as it were, over this and that and, that it was merely
27 a kind of an expression of frustration on the basis
28 that, you know, 'should we get married' such were the
29 arguments that were going on between you?

1 A. what do you mean by "squabbling"?
2 11 Q. Over incidents around the hospital?
3 A. There was no -- I'm not familiar with the term
4 "squabbling" but there was no conflict essentially.
5 The only thing that I had communicated with him was 11:54
6 things like 'does this patient need bloods? Is this
7 report for this patient needed'? Or, you know, various
8 standard intern/registrar interactions. And then the
9 first issue was that he started calling me asking me
10 for time off that I couldn't grant. So I wasn't in a 11:54
11 position to grant that, that wasn't a squabble. In
12 fact he seemed to have a pretty good humour about it
13 and he started to text me the days afterwards saying he
14 was back in the country, and I just found it very
15 unusual. But there was no -- I certainly wasn't 11:54
16 trying to have any conflict with him. I just
17 essentially got inappropriate messages and flagged them
18 as soon as I got them.
19 12 Q. Yes. Did you think he was serious about proposing
20 marriage to you? 11:54
21 A. I thought it was extremely bizarre because essentially
22 there was very little by the ways of communication
23 between the two of us before then. So I thought it was
24 very concerning and alarming that someone would jump to
25 such a declaration, be it sarcastic or not, given that 11:55
26 he was a senior professional registrar to me and I was
27 the most junior member on the team and there was --
28 it's just totally inappropriate.
29 13 Q. Okay. And you brought this to the attention of the

1 consultant, Mr. Tom Lee?

2 A. Yes.

3 14 Q. Now did you show him the text?

4 A. Yes.

5 15 Q. He doesn't mention that in his statement? 11:55

6 A. I had witnesses there at the time; Canal and Oisín were

7 there. We were sitting around the table at tea, which

8 is what we usually did after ward rounds, and I slid

9 the phone over to him because I didn't really know how

10 to say anything about it, I was in shock, and I felt 11:55

11 the messages spoke for themselves.

12 16 Q. And could it be that you may have slid the phone over

13 but he didn't read the message?

14 A. Oh, no, he was very alarmed by it. He said, you know,

15 a number of things like, you know, he'd never come 11:56

16 across anything quite like this. He kept repeating

17 that in the presence of Annette Kelly, "never come

18 across anything quite like this. Have you ever come

19 across anything like this, this is" -- You know, he was

20 quite shocked by it. 11:56

21 17 Q. And why -- how -- have you read his statement?

22 A. His statement?

23 18 Q. And his evidence?

24 A. I haven't read his statement. I'm not in a position

25 to, you know, comment on whether or not he mentioned 11:56

26 that in his. But I know for a fact that he read it and

27 he was aware of what was written there.

28 19 Q. Well I have to put it to you on the basis of what

29 Dr. Lee has signed in his statement and said in his

1 evidence that there is no clear indication from him
2 that he read that text?

3 A. well you need to ask him that. Maybe he doesn't
4 remember but he definitely was shown it.

5 20 Q. Okay, did you show the text to the HR administrator, 11:57
6 Ms. Annette Kelly?

7 A. I can't specifically recall but I do recall being in a
8 room with him and her. And again I feel that he might
9 have said, you know, 'show her this'. But I don't -- I
10 don't have a specific memory of her seeing it but I 11:57
11 definitely remember him reading it.

12 21 Q. And did you see the memo that arose from the meeting
13 between witness B, Mr. Lee and Ms. Kelly?

14 A. I have some recollection of seeing that, and I know
15 that it didn't maybe mention that he had asked me to 11:57
16 marry him? But he himself was asked -- he himself has
17 mentioned it in a letter to the Irish Medical Council
18 that he did do that.

19 22 Q. Yes, but in the memo it wasn't mentioned either, was
20 it? 11:58

21 A. well I am not -- I can't speak for people's
22 incompetencies, you know, if they're not going to
23 adequately, you know, write down exactly what happened.
24 But I was definitely showed it to Mr. Lee, or Dr. Lee.

25 23 Q. Do you believe that the HR person handling this matter 11:58
26 and Mr. Lee, it is -- were incompetent in this respect?

27 A. well I certainly didn't feel supported and I don't
28 think that, you know, when they reached out to him in
29 the initial instance and told him to stop messaging me,

1 it caused more aggravated, you know, behaviour from him
2 and I was scheduled oncall from him, despite asking
3 them not to. But, I mean, I wasn't aware of what
4 happens in these situations, I wasn't aware what the
5 normal practices were. So, you know, I wasn't there to 11:59
6 critique them, I just certainly felt like, you know, I
7 just needed more support.

8 24 Q. And you felt you didn't get that support?

9 A. No.

10 25 Q. And you made that quite clear at page 145 of day two -- 11:59
11 147, excuse me, of day two of your evidence, isn't that
12 correct, when you said:
13
14 "I kind of felt very much on my own" --

15 A. Sorry, the sound has dropped. 11:59

16 26 Q. I'm sorry, my apologies, I was turning away. You said
17 that you felt very much on your own in this matter?

18 A. Ehm, well I had the support of people who were close to
19 me, but certainly I didn't feel that organisations were
20 supporting me, no. 11:59

21 27 Q. And you also indicated that essentially Tom Lee wanted
22 the matter hushed up, that there were mental health
23 issues here that he didn't want to ventilate or
24 broadcast, and that may be the reason for under the
25 carpet, as it were? 12:00

26 A. I don't know what the reasoning was but certainly I was
27 a little bit shocked when I asked for the, you know,
28 incident to be written down, and I was told that it
29 would mark my record. I felt like that was wrong. But

1 at the time I was a junior, you know, I had only
2 started working within that year so I didn't know what
3 the correct protocol was and I was trusting of my
4 senior colleagues.

5 28 Q. But you did know what the reasons were, you referred to 12:00
6 them -- excuse me if I turn away and you don't hear
7 me -- you referred to the reason that Tom Lee didn't
8 want the matter documented at page 147 of day two of
9 the hearing. You were aware of why it wasn't, as it
10 were, ventilated? 12:01

11 A. Well he had mentioned that but I didn't really, you
12 know -- he mentioned that as an excuse for the
13 behaviour but I didn't agree with that. I don't think
14 that that excuses this behaviour. I don't think that,
15 you know, you can't say that someone with mental health 12:01
16 issues, you know, is going to harass and stalk people
17 and be unprofessional, they're not linked.

18 29 Q. Yes. They didn't see it as that clearly because, if
19 they did, one would have expected them to take it more
20 seriously, is that not correct? 12:01

21 A. Well, as I said at the time, I didn't know what the
22 protocol was. But essentially all I asked for was that
23 I wasn't scheduled on the same day oncall and that
24 happened, so I was disappointed.

25 30 Q. That didn't happen, you mean? 12:01

26 A. As in I was scheduled on the same day as Witness B and
27 I had to ask somebody else, I had to arrange it myself.

28 31 Q. So does that not indicate a criticism or a reality that
29 they didn't take this as seriously as one would expect

1 if this was sexual harassment up to the point --
2 harassment up to the point of somebody actually
3 proposing marriage?

4 A. I can't speak for their actions I just felt very
5 disappointed by them. And I think, you know, certainly 12:02
6 I would have expected it to be fully written down and I
7 would have expected not to have been on the call rota
8 at that point and that is all I asked for at that
9 point.

10 32 Q. Don't take this offensively, but are you hard to deal 12:02
11 with?

12 A. I don't know how to answer that. I don't believe I am,
13 I don't think any one has told me that ever.

14 33 Q. Your friend Claire Cullen in her statement to the
15 Medical Council says at paragraph 8 that you are a 12:03
16 "very straightforward and blunt person". What do you
17 think that means?

18 A. I'm honest and I don't, you know, I don't create any
19 elaborate stories or I don't -- I just get to the
20 point. 12:03

21 34 Q. But in respect of elaborate stories towards the end of
22 your evidence on day two you spoke of you gave evidence
23 regarding messages that came into you, to your older
24 phone in 2020 and 2021, isn't that correct?

25 A. Yeah. 12:04

26 35 Q. And some of the concerns that you expressed there were
27 fairly elaborate in terms of kidnapping and being taken
28 to another country?

29 A. So I was having recurrent nightmares of being kidnapped

1 and being brought to another country and he referenced
2 in a text message that he wanted to bring me to Spain
3 and catch Covid. So, yes, I had a lot of fear, I had a
4 lot of terror about this person, and when he found out
5 where I was living, he found my housemate, then I 12:04
6 started to get very concerned that he might turn up and
7 what might happen if he turned up.

8 36 Q. I will come back to that issue of your housemate,
9 witness A, in a moment. But there is no evidence, and
10 you provided no evidence, that witness B was involved 12:04
11 at all in any of those matters got to do with 2020 and
12 2021?

13 A. What matters?

14 MR. MCDOWELL: I think that it is important that
15 Mr. Colleran is just clear with the witness about what 12:05
16 he is asking her about. Even a moment ago the
17 reference to a kidnapping and elaborate stories was in
18 fact I think a reference to witness A describing a
19 nightmare that she'd had once -- or nightmares that
20 she'd had. So I think it is just if witness A's 12:05
21 previous evidence is going to be put to her, it's
22 important that it's put to her with precision and
23 accurately.

24 37 Q. MR. COLLERAN: I accept that. If we wheel back a bit
25 so, witness A, to the events near to your original 12:05
26 meetings with witness B. It went on and you went your
27 own way in July of that year, isn't that correct?

28 A. I went to a different hospital. I have been told that
29 he went to another one but I don't know that for

1 certain.

2 38 Q. And then you lost your phone in May 2016?

3 A. Yeah.

4 39 Q. And so therefore you have no text message at all to
5 show any of these messages in reality? 12:06

6 A. No, but I spoke to many people at the time, so there
7 are many witnesses to know that that is what had
8 happened at the time. There were inappropriate
9 messages sent.

10 40 Q. And we have the witness, Dr. Claire Cullen, are there 12:06
11 other witnesses that you will be relying on?

12 A. Well I mean it's -- I am just able to tell you who I
13 spoke to at the time which was Dr. Lee, Annette Kelly.
14 In my original letter to the Irish Medical Council
15 starting this process I also mentioned the two SHOs who 12:06
16 were working on the team at the time, they were aware
17 of it. Claire Cullen was one of my housemates, the
18 other housemates were aware of it as well because I was
19 very afraid, I was afraid he was going to follow me
20 home from work. 12:07

21 41 Q. Do you think that you exaggerated the threat from
22 Witness B from the get-go?

23 A. Absolutely not because this came from nothing --
24 MR. MCDOWELL: Just before Witness A answers that
25 question could Mr. Collieran, what does that question 12:07
26 mean? Mr. Collieran has to specify what he is talking
27 about when he's suggesting that there was exaggeration.
28 I mean is he talking about the Medical Council
29 complaint, is he talking about the complaint to the HR,

1 is he talking about the interactions with Ms. Cullen?
2 It's important that accurate and precise questions are
3 put to the witness.

4 MR. COLLERAN: The witness, witness A, has referred to
5 concerns that she had, and following up from that I 12:07
6 felt entitled to ask whether or not those concerns were
7 exaggerated.

8 MR. MCDOWELL: No, but if it is being suggested that
9 she exaggerated, it must be at a particular date, at a
10 particular time in a particular complaint, rather than 12:08
11 just a sort of general sort of 'did you exaggerate ever
12 in your life at any stage'. So I just would ask that
13 the question be put in such a way that is actually
14 answerable by the witness.

15 42 Q. MR. COLLERAN: witness A, you had no further contact 12:08
16 then after you lost the phone in 2016 in May until the
17 31st March 2017, isn't that correct?

18 A. Yeah. To my knowledge, yeah.

19 43 Q. And at that stage you gave evidence previously, you
20 sent a message to witness B in April 2017 which read 12:08
21 "you have been told" -- I should rephrase that. You
22 gave evidence saying that you sent a message to a
23 person you believed to be witness B on April 1, 2017
24 and you said:
25
26 "You have already been told not to contact me. Do not
27 contact me again. I have spoken to the police about
28 this and, if you continue to contact me, I will have to
29 take further action". 12:09

1
2 Isn't that right?
3 A. Yes.
4 44 Q. That number at the top of that contact, do you know
5 that number to be that of witness B? 12:09
6 MR. McDOWELL: well can we see the document that is now
7 being suggested to the witness?
8 MR. COLLERAN: Yes please do.
9 MR. MCDOWELL: Mr. Colleran should produce these
10 documents. I mean I don't want to conduct his 12:09
11 cross-examination for him.
12 MR. COLLERAN: That is the document sent by witness A
13 on April 1. That is in the core book page 351 of 463.
14 MR. MCDOWELL: I think it's actually page 94 of the
15 core book using the pagination in the bottom right-hand 12:10
16 corner
17 MR. COLLERAN: Yes.
18 MR. McDOWELL: And it is tab 47 for the Trialview
19 operative.
20 45 Q. MR. COLLERAN: Thank you. There is a number at the 12:10
21 top of that, if you can see it?
22 A. I can't see it.
23 46 Q. That is it there now on the screen?
24 A. Yes.
25 47 Q. Do you recognise that number? 12:10
26 A. I don't recall because I haven't memorised all the
27 numbers but it says at the top there "[witness B]".
28 48 Q. Yes, but do you recognise the number?
29 A. well it was a number that was asking me to unblock it

1 and asking me to take calls. So it was a number that
2 had tried to call me and was texting me and asking for
3 my Instagram and it was signed off as "[Witness B]".
4 49 Q. I have to put it to you that that message sent by you
5 on the 1st April 2017 did not in fact go to witness B 12:11
6 and that he is a complete stranger to that message.
7 You have no comment to make on that?
8 A. I received a call the day before and the voice in that
9 call would have been that of witness B. And then
10 persistent text messages referencing things that had 12:11
11 happened in Mayo led me to believe that all the calls
12 and all the texts that I was getting addressed by that
13 name, witness B, at that time were coming from him.
14 So I responded to that number.
15 50 Q. I understand but, at any rate, I have to put it to you 12:12
16 he did not receive that message from you. In respect
17 and I indicated earlier that I won't be going through
18 every line back of your evidence that you say that in a
19 message received in -- just one moment please.
20 A. Could I also just mention something? 12:12
21 CHAIRPERSON: Yeah, I just ask you to pause for one
22 moment, witness A, until Mr. Colleran, looks like he is
23 taking advice or checking something. So I will let you
24 come in in a minute, please.
25 MR. COLLERAN: Perhaps the text message of 2019 which 12:13
26 references witness A's sister might be put up?
27 CHAIRPERSON: Sorry, before you do that, I believe
28 witness A wished to put a further comment to the end of
29 her answer.

1 A. Just as well that was sent on the 1st April and
2 straightaway Claire Cullen received a message from the
3 number that she knew was associated with witness B, you
4 know, saying that I had done something silly or, you
5 know I have given you the messages before, but 12:14
6 essentially corroborating that he was involved that day
7 and he mentioned my name in it. So, it would be
8 extraordinary to me that the person who I texted
9 happened to know about that. And then it ended up back
10 in witness B, you know, knowledge and he went on to 12:14
11 Dr. Cullen then. So it just would be very unusual I
12 think but...

13 51 Q. I have to put it to you that that message concerning
14 his sister was not sent by witness B to you?

15 A. His sister? 12:14

16 52 Q. No, your sister, a reference to your sister --
17 MR. MCDOWELL: Sorry, again I mean it is most
18 unsatisfactory that documents are being put in this way
19 MR. COLLERAN: Yes.

20 MR. McDOWELL: But I think the documents being referred 12:14
21 to is at page 109 of the book and it is behind tab 49.
22 But really, you know, it should be for Mr. Colleran and
23 his solicitor to point out.

24 MR. COLLERAN: Yes, of course.

25 CHAIRPERSON: Given the passage of time, I appreciate 12:15
26 Mr. McDowell, your assistance in helping Mr. Colleran
27 finding that information

28 MR. MCDOWELL: Yes.

29 53 Q. MR. COLLERAN: And so do I. I must admit I am at

1 difficulty here in finding that particular reference to
2 witness A's sister and if you'll bear with me.

3 A. I can see it on the screen myself.

4 54 Q. It is on the screen, yes. I have to put it to you that
5 was not sent by Witness B? 12:16

6 A. Well whoever it was sent by name, the name is [Witness
7 B] and they wanted to meet me at the Róisín Dubh, where
8 that is 10 minutes away from the Mill Street Garda
9 Station. So again there's a sequence of days where I
10 was receiving messages from several numbers. And when 12:16
11 I was in the garda station they called one of those
12 numbers and witness B arrived, meaning that he wouldn't
13 have been far from Mill Street. So it's understandable
14 that he could very much have been in the area of the
15 Róisín Dubh and several other numbers refer to that too 12:17
16 so...

17 55 Q. I have to put it to you, witness A, that witness B was
18 of the impression you didn't have a sister?

19 A. I don't have a sister. But I mean I don't understand
20 why he would have, you know he might have not known 12:17
21 that at that point of time.

22 56 Q. I have to put it to you that witness B will state that
23 you told him you didn't have siblings or a sister at
24 least?

25 A. I don't recall but if he knew that information, it was 12:17
26 likely because I was having tea with the team and, you
27 know, Dr. Lee would have -- would have asked me. But
28 you're saying that I have no siblings, is that what
29 you're saying?

1 57 Q. No, he said no sister, he will be saying no sister?
2 A. Well I mean --

3 58 Q. Which is the case?
4 A. I wouldn't have told him that directly.

5 59 Q. He will say that you communicated that to him? 12:18
6 A. Okay.

7 60 Q. So therefore, the point is, I suppose, is clear, that
8 in the event that he knew you had no sister, and you
9 knew or may have known probably that he knew that you
10 had no sister, why would he mention sister? It doesn't 12:18
11 make sense, does it?
12 A. There's lot of things he says and does that don't make
13 sense.

14 61 Q. That's what you're --
15 A. A lot of things he says that are false. So I'm just 12:18
16 telling you what I know is true, is that I was
17 receiving these messages from several numbers and when
18 one of the numbers was contacted witness B arrived to
19 the garda station.

20 62 Q. Very well. Now he does accept that he contacted you 12:18
21 in or about this time in relation and did put in a
22 message got to do with an invitation to Róisín Dubh.
23 And that he was, and the reason for that is that he
24 was -- he had not received your message "don't contact
25 me" ,there was no clear expression of not contacting 12:19
26 you at all in the memo he received from the HR, and
27 that he was in Galway and he wanted to link up and that
28 he was at a function, a charity function, in Galway,
29 Róisín Dubh, does that make any sense to you?

1 CHAIRPERSON: So this is text messages Shane Russell is
2 named on the file
3 MR. COLLERAN: Yes.
4 CHAIRPERSON: So that's tv-171-0452 if that helps our
5 TrialView colleagues. 12:22
6 MR. MURRAY: Apologies, Chair, you might just repeat
7 that?
8 CHAIRPERSON: Yes, it's tv-171-0452, it's called "Shane
9 Russell text messages". I hope that's the correct
10 file, Mr. Colleran. Just to say Mr. Colleran you are 12:23
11 muted at the moment.
12 MR. COLLERAN: My apologies, Chair.
13 CHAIRPERSON: No problem.
14 65 Q. MR. COLLERAN: I'll deal with this and I wish to just
15 wheel back briefly from another matter then. 12:23
16
17 In respect of the Dr. Shane Russell matter that you say
18 caused so much alarm, at page 88 of day two of your
19 evidence, you will see that communication came in on
20 8th June 2019, isn't that right? 12:23
21 A. Yes.
22 66 Q. And it was clear that:
23
24 "Hi, Shane, bring the key".
25
26 It says. 12:24
27
28 "Sorry" --
29

1 That is misspelt but it is "sorry" I presume --
2 "I text wrong Shane".
3
4 To which Dr. Russell replies:
5
6 "Who's this"?
7
8 And it says:
9
10 "I am [Witness B], sorry".
11 "I have your number" --
12
13 I presume that means --
14
15 "from past".
16 "Sorry for disturbance".
17
18 Because in the QWERTY board, as we all know, R and Y
19 and T is very close so that may explain that and
20 obviously does. And it is clear that it is something
21 "bring your key" or "bring the key", it is something
22 got to do with accommodation, isn't it? Isn't that
23 clear?
24 A. I can't, I can't say, I don't know. It could be a key
25 to a box, it could be -- you know I can't. But I just
26 thought it was very unusual at this time that I was
27 getting keys to an apartment but I don't know.
28 67 Q. And maybe understandably you combined both matters, is
29 that correct?

1 A. Well given that he was able to access my Instagram,
2 even though it was on private and had a different
3 nickname, given that he's used multiple messages in
4 different apps, you know, I ascertain that perhaps he
5 is able to do stuff technologically that I am not privy to. So, yeah, I do think there is a strange
6 coincidence there. 12:25
7
8 68 Q. Okay. Would you be surprised to know that his landlord
9 is called Shane?
10 A. I don't know anything about him so I don't -- 12:25
11 69 Q. No, I mean obviously you would because you didn't know.
12 So but I am not putting words in your mouth, forgive
13 me. But I put it to you that his landlord is called
14 Shane and that explains contact with Shane Russell a
15 mistake and he even says it: "Sorry I text wrong 12:26
16 Shane". Did you take regard to that line at the time?
17 A. The only reason I knew about the text messages was
18 because he wrote to the Irish Medical Council and
19 mentioned Shane in some weird context as being my
20 friend. So how did he know Shane and I knew each 12:26
21 other?
22 70 Q. Did you know that Shane worked in -- Are you aware that
23 Shane worked in Mayo University Hospital as well?
24 A. A year before I did.
25 71 Q. Yes. 12:26
26 A. So there was no way he would have known that we knew
27 each other, unless he was looking at social media or he
28 was trying to figure out some other way.
29 72 Q. Can I refer you to the list of documents that we sent

1 into the Inquiry on Friday evening.

2 MR. MCDOWELL: Just to be of assistance to Mr.

3 Colleran, I don't think this is uploaded onto TrialView

4 yet. So I think it should be uploaded now and perhaps

5 assigned an exhibit number. 12:27

6 CHAIRPERSON: Yeah, I am not sure if anyone is keeping

7 count but I am going to call this exhibit 21 when it

8 gets uploaded.

9 MR. MCDOWELL: Mr. Colleran is on mute.

10 73 Q. MR. COLLERAN: Yes I am coming to the point now, Chair. 12:27

11 If I can ask for, it is page 4, could be the next page

12 now I am afraid because -- yes.

13

14 Could I ask the witness to have a look at that page,

15 which is of the 2/3/2015, and it is from Shane and it 12:28

16 has "in progress"?

17 A. It is very difficult to read that, I don't even know

18 what application that is, I don't know anything about

19 it.

20 74 Q. Just one moment, please. I put it to you that that is 12:28

21 Shane Russell referred to there?

22 MR. MCDOWELL: Could Mr. Colleran just identify what

23 this document is, who is going to prove it, and what

24 it's supposed to say or what it's supposed to mean.

25 MR. COLLERAN: Yes, this is a document that will be 12:29

26 proven by Witness B and it is communications that took

27 place arising from their work in Mayo University

28 Hospital. And it seeks to explain how it came to be

29 that witness B had Dr. Shane Russell's number.

1 CHAIRPERSON: So just so I am clear, are you
2 contending, Mr. Colleran, that the Shane referred to at
3 the top of that page is actually Dr. Shane Russell and
4 not Shane, the landlord, of witness B?
5 MR. COLLERAN: Yes. 12:29
6 CHAIRPERSON: There is no number on that document,
7 telephone number.
8 MR. COLLERAN: Bear with me, Chair. Yes, I note that,
9 Chair, but at any rate we will seek to prove --
10 CHAIRPERSON: I understand. 12:30
11 MR. COLLERAN: -- the document
12 CHAIRPERSON: Then just for the benefit, I think
13 witness A indicated she was unclear, so what
14 application this messaging was exchanged under, are you
15 able to assist us in that matter? 12:30
16 LEGAL ASSESSOR: Chairman, might I just intervene to
17 say I think one of our members has difficulty with the
18 connection.
19 CHAIRPERSON: Oh, thank you very much, Mr. McGuinness.
20 We might pause for a moment to allow Dr. Mary -- no, 12:31
21 Dr. Mary is there, it is Ms. Mary Devins who I think is
22 having problems connecting.
23 LEGAL ASSESSOR: Yes, she would have missed just the
24 last explanation given by Mr. Colleran a moment ago.
25 CHAIRPERSON: Yes, I think my colleague is back now. 12:31
26 So you may have missed an exchange, Ms. Devins.
27 MR. COLLERAN: That is a forensic a system that
28 downloads from devices and we will provide that to the
29 inquiry.

1 CHAIRPERSON: Thank you very much, that is very
2 helpful. So I think Ms. Devins is going to continue
3 but with her camera muted because I think she has
4 broadband issues at this time of day
5 MS. DEVINS: Thanks, Chairman, yes, just to confirm I 12:31
6 am present, I can hear, so I did, I stopped my video.
7 CHAIRPERSON: Lovely, thank you very much. Sorry for
8 interrupting, Mr. Colleran.

9 75 Q. MR. COLLERAN: So therefore that is the reason why
10 Witness B, so that is the reason why he had Dr. Shane 12:32
11 Russell's number, do you accept that?

12 A. I can't really read what's on that aside from "in
13 progress", so I mean I don't know anything about what
14 is being shown to me there. But it is conceivable that
15 they were in Mayo at the same time and they had to work 12:32
16 together. It doesn't explain how he knows that Shane
17 and I knew each other.

18 76 Q. And where do you see that?

19 A. I just I am intimidated by it.

20 77 Q. No, but where do you see that he knew you and Shane 12:32
21 knew each other?

22 A. Because in my -- in correspondence to the Irish Medical
23 Council there were two complaints, there was the
24 complaint that I made against him and there is a
25 complaint that he made against me, and within a lot of 12:33
26 correspondence in that he mentioned my friend Shane
27 Russell. That's the only reason that I knew that he
28 knew Shane Russell.

29 78 Q. Very well. But at the time this message came in in

1 2019, June 2019, and there was a follow up message in
2 January 2020, it is fair to say, is it not, that alarm
3 bells started ringing in your head?
4 A. well, they were alarming to many people who were seeing
5 that this person who had been harassed me for years had 12:33
6 started reaching out to my housemate. He had done it
7 before with my other housemate, Dr. Cullen, so it's,
8 you know, it's a pattern that he's doing, he's reaching
9 out to the people around me in order to reach me and it
10 is very troubling. 12:34
11 79 Q. The message -- I am sorry, I don't wish to interrupt
12 you, were you complete?
13 A. Yes.
14 80 Q. Yes. So but the message on the 22nd January 2020
15 says: 12:34
16
17 "Hi Shane, how are you?" --
18
19 And perhaps we could get that on the screen. That is
20 in the -- In the book of witness statements that is at 12:34
21 page 338.
22 A. well in January he for certain knew that Shane Russell
23 was my friend and he had mentioned him in
24 correspondence to the Irish Medical Council. So in
25 January 2020 he was messaging him, you'd think he would 12:35
26 be very careful in who he was asking for accommodation.
27 81 Q. That may well be the case, but in light of the fact
28 that witness B insists that his landlord is Shane, and
29 it was a mistake, he made that quite clear in the first

1 text, do you accept he made it clear in the first text
2 or messaging?

3 A. No.

4 82 Q. He said it was a mistake?

5 A. Has he -- has he, you know, given the details of this 12:35
6 person who he says is his landlord, could he just be
7 lying about that? Regardless, he still continued to
8 message him and ask him for Instagram. And regardless
9 he messaged him in January, after he had named him in
10 Irish Medical Council correspondence so... 12:35

11 83 Q. So you don't accept he has a landlord called Shane?

12 A. I don't think he's a very, you know, honest person so I
13 think he could be spinning any sort of story.

14 84 Q. Yes, okay.

15 A. The facts are that he reached out to my housemate when 12:36
16 he's been harassing me for years and he's put in
17 complaints to the Gardaí and the Irish Medical Council
18 and the WRC against me so...

19 85 Q. Are you unwilling to consider that had this was simply
20 a mistake on his part? 12:36

21 A. Well if it was, why would he do it twice? Why give
22 him -- why allow him the, you know, he is -- he is
23 harassing me, this is a form of harassment.

24 86 Q. But even the language in those two messages, witness A,
25 the second message is: 12:36
26

27 "Hi, Shane. How are you? Everything all right? I'm
28 in Ireland. Any room vacant?"
29

1 That was a landlord inquiry, do you accept that?

2 A. How do you know? How do you know that?

3 87 Q. I am putting that to you.

4 A. well, there is no evidence to suggest it is. I'm

5 saying he for certain knew it was Shane Russell at that 12:36

6 point and he for certain was asking him for

7 accommodation.

8 88 Q. You don't -- do you not countenance the notion of

9 people making mistakes with digital technology on the

10 basis of similar names coming up right beside one 12:37

11 another on the list?

12 A. It's a possibility but I think it's very unusual given

13 that he has for years and years been manipulating

14 technology and reaching out to the Irish Medical

15 Council and naming people and then messaging them. I 12:37

16 think it's very unusual behaviour.

17 89 Q. At any rate, is it your case, or your position rather,

18 that you do not accept that this was a mistake?

19 A. I think he's -- I think he lies and, you know, he will

20 lie for his own benefit. 12:37

21 90 Q. In this particular issue of Dr. Shane Russell, is it

22 that you do not accept this was a mistake?

23 MR. MCDOWELL: Just before witness A answers that,

24 I mean and I sort of haven't intervened so far. But

25 really whether witness A believes or disbelieves 12:38

26 [witness B]'s account is neither here nor there because

27 it's a matter for the Committee to decide her opinion

28 evidence is not admissible on the issue. So I just

29 wonder whether this cross-examination is really

1 worthwhile ?

2 MR. COLLERAN: I am pressing the point on the basis

3 that witness A has characterised these messages as an

4 attempt by witness B to live with Shane Russell.

5 That's at page 88 of the second day, line 5, from line 12:38

6 1 you could say to 6. And that that he was trying to

7 ask Shane if he could live Shane if he could live with

8 Shane, which would therefore mean live with me. Now I

9 am putting it to witness A that that couldn't be

10 further from the truth, that this was an innocent 12:39

11 mistake made on the basis of digital technology

12 listings and it was clear from the first mistake that

13 he recognised it, apologised for it, didn't really know

14 who he was dealing with. Do you accept that?

15 A. I think some of the audio dropped there. 12:39

16 91 Q. Do you accept he acknowledged his mistake in the first

17 message?

18 A. He didn't know it in the second one, he didn't say

19 anything about landlord before now.

20 92 Q. No, right. In the first one then, let us deal with the 12:39

21 first one, you know he acknowledged his

22 mistake?

23 A. He continued to talk to him.

24 93 Q. Yes, but do you think it is unusual for people to look

25 up other people to see if they are aware of them 12:40

26 before? Is that unusual in the digital world we are

27 living in, do you think?

28 A. I think taking it out of context, you know, yes, anyone

29 can look anyone up. But the fact that within a few

1 months he was naming Shane Russell in correspondence to
2 the Irish Medical Council. The first I saw of any of
3 this was when I received a letter, which that was only
4 one line in a very long letter making outrageous claims
5 against me, and very much being you know harassing and, 12:40
6 you know, outrageous behaviour on his part. So in the
7 context that I received it, it was a very long
8 correspondence of all sorts of accusations that were
9 false. He mentioned Shane Russell's name and Shane
10 Russell was in my house at that time. And when we 12:41
11 looked back Shane Russell had been messaging with him.
12 So it's a very unusual situation and at no point did I
13 know before you put it to me now that there was a
14 landlord involved that had the name Shane. So, yes,
15 the most obvious scenario is that he is mentioning him 12:41
16 in IMC correspondence, then he knows that I am his
17 friend, why is he reaching out to him?

18 94 Q. So, just to -- I don't want to put words in your mouth
19 but do you accept that this was a simple mistake?

20 A. I don't really accept any of the behaviour that he does 12:41
21 or doesn't do.

22 95 Q. And can I take that to mean that you do not accept this
23 was a mistake?

24 A. I don't know, I don't know. I can't comment on it.

25 96 Q. Well what you previously -- 12:42

26 A. It's too much of a coincidence, it could be a lie from
27 him. There's many possibilities of what it is or
28 isn't. All I'm saying as a victim of harassment, it
29 was frustrating and it was terrifying.

1 97 Q. It's fair to represent you as believing that this is
2 not -- this may -- this was not a mistake, isn't that
3 correct?
4 A. At the time that I first saw those text messages I felt
5 he was doing this on purpose. 12:42
6 98 Q. And today?
7 A. I'm not here to prove whether they're one way or the
8 other. I'm just saying essentially that he has reached
9 out to someone I was living with while he was
10 mentioning that person in the Irish Medical Council. 12:42
11 Yes, I did believe that he was trying to live with me.
12 You're now saying there's another person that's
13 potentially called Shane, maybe that's reasonable, but
14 I mean I have no proof of that, I'm just going off what
15 you're saying. So my inkling is that this person is a 12:43
16 liar, and this person is manipulating, and this person
17 was trying to intimidate me by reaching out to the
18 people who I know.
19 99 Q. Very well. And what would you say to the suggestion
20 that you have catastrophised this incident as well as 12:43
21 others --
22 A. So --
23 100 Q. -- unfairly as against witness B?
24 A. So, going back to the very start, there was very little
25 communication. SO I would say if anyone has blown this 12:43
26 out of proportion it was him initially asking me to
27 marry me outside of any communication or context that
28 would suggest that that was an appropriate thing to do.
29 Over the course of the years he has made it very aware

1 that he knew where I was. He knew where I was in
2 Galway when I was there in 2017, he knew where I was in
3 in 2019. Fair enough, he might have made a mistake
4 with my housemate but certainly he knew that my
5 housemate was my friend in 2020. Then, more recently, 12:44
6 I started a job in July whereby on the day after I
7 started the job he knew where I was. He knew where I
8 was in the few weeks beforehand. So he is constantly
9 in one way or another corresponding with someone or
10 some organisation to make it very clear that he knows 12:44
11 where I am and that, to me, is harassment, stalking and
12 it is terrifying when it goes on for eight years.

13 101 Q. I understand. Then if we turn to Dr. Claire Cullen.
14 She -- Before I get to that, witness A, if you would
15 bear with me a moment. I have to put a document to you 12:45
16 in respect of they are one of the documents we sent
17 over, that's one of the documents we sent over on
18 Friday night. It's on page 9 of the document booklet
19 we sent over and it is a message from the 30th April
20 2019, that message. Just one moment, please. I have to 12:45
21 put it to that that is your number and that is your
22 message to Witness B on the 30th April 2019?

23 A. That is a number to my old phone, I don't think that
24 that's a message that I would have written. I'm
25 suspicious of that image to be honest. 12:46

26 102 Q. You were shown this image by the CEO prior to this
27 cross-examination?

28 A. I saw it this morning.

29 103 Q. And you'd time to consider the matter?

1 was the same number, then there should be messages
2 above that showing him reaching out to me after I had
3 asked him to stop texting me, and that he would not
4 text me -- he said in those messages that he would not
5 text me, he would just WhatsApp me, which again alarmed 12:48
6 me to the fact he had no understanding of what he was
7 doing and it was bizarre.

8
9 So that was 2016 and I didn't respond to that WhatsApp.
10 And then later on when I sent the message to the 12:49
11 Gardaí, that was also a text message. So at no point
12 did I WhatsApp him, his number, and I certainly would
13 not have reached out in 2019. That's just bizarre.

14 107 Q. Witness B will say that this wasn't the only
15 communication you had with him about that time? 12:49

16 A. Absolute lies. No, I wouldn't have reached out to him.

17 108 Q. And witness B will say that, when requested to do so by
18 the guards, he deleted these messages and found just
19 this one residual one?

20 A. The messages that I sent were in response to the 12:49
21 messages that -- I have already given all the evidence
22 -- they were essentially just ascertaining who was
23 sending the messages because if they were legal
24 proceedings to show that he was clearly the person he
25 was saying he was, and they are in the previous text 12:49
26 messages. But I most certainly did not reach out, this
27 is not a message from me. And also even just the
28 design of it like, you know, it's very short. I just
29 think it's -- I think it's been fabricated.

1 MR. MCDOWELL: Could I just interrupt Mr. Colleran's
2 cross-examination to say that he made a remark there to
3 witness A where he said that his client will say that
4 this was not the only contact that witness A had with
5 his client around the time. So if that is the case, I 12:50
6 think it's incumbent on Mr. Colleran to identify to
7 this witness what other communications he said took
8 place and what his client's evidence is going to be on
9 that issue so that witness A can respond to that.

10 109 Q. MR. COLLERAN: witness A will say that he received 12:50
11 phone calls and text messages or messaging a number of
12 times from you, witness A, at about this time?

13 A. The only communication is in the text message that I
14 sent, essentially asking who he was, and after that I
15 blocked numbers, I blocked phone -- you know, I didn't 12:51
16 answer phone calls. I did not in any way, shape or
17 form try to communicate with him, aside from the fact
18 that I told him -- you know, I asked him "who is this"?
19 And then I asked "[witness B]?" just to confirm. But
20 this was not -- like I wasn't -- after the conversation 12:51
21 with Dr. Lee and Annette Kelly in 2016, I didn't want
22 anything to do with this person, I tried to avoid him
23 as much as I possibly could. And I thought when I left
24 Mayo that there wouldn't be any more of it but I was
25 wrong. 12:51

26 110 Q. witness B will be giving evidence in respect of that to
27 prove the authenticity of that, of that screen grab,
28 and will explain, or will be saying, and I have to put
29 it to you, that the only reason he has that one screen

1 grab is because the garda asked him to delete all
2 others, which he did?

3 A. So it's --

4 111 Q. In fact asked him to delete them all but he happened
5 not to delete that one by accident? 12:52

6 A. I mean if they asked him to delete it that would have
7 been in May 2019. So either -- you know, how did he
8 have something from April then?

9 112 Q. 20 -- That's your position. In respect of Dr. Claire
10 Cullen, did you show her the message about the request 12:53
11 to marry?

12 A. At the time I would have, yes.

13 113 Q. And it was referred to you as well about messages she
14 received from witness B, isn't that correct?

15 A. Yes. 12:53

16 114 Q. And those messages were received and those messages I'm
17 referring to are at 324 in the booklet of witness
18 statements. If I could get it on screen for witness
19 A?

20 CHAIRPERSON: And again we might need to invoke 12:54
21 Mr. McDowell's assistance

22 MR. MCDOWELL: Yes if you are looking for the Claire
23 Cullen text messages --

24 CHAIRPERSON: Ys.

25 MR. MCDOWELL: -- those are behind tab 47. Page 99 in 12:54
26 the bottom right-hand pagination.

27 CHAIRPERSON: So again if it would assist our TrialView
28 colleagues, tv-171-1776 is the document number.

29 MODERATOR: I might just confirm, what tab was this?

1 CHAIRPERSON: So it's tab 47, document number
2 tv-171-1776, and I think it's page 7 of 10.
3 MODERATOR: Thank you.
4 CHAIRPERSON: Thank you.

5 115 Q. MR. COLLERAN: Yes, that is a message -- if witness A 12:56
6 is with me?
7 A. Yes.

8 116 Q. Yes, that is a message received by your friend Claire
9 Cullen?
10 A. Yes. 12:56

11 117 Q. On the 1st April 2017?
12 A. Yes.

13 118 Q. And then if we scroll down to the next message --
14 which it is explained who it is and from where they may
15 have met and he asked for a moment and she refuses, as 12:56
16 is her right?
17 A. Yes.

18 119 Q. And he says:
19
20 "I didn't say anything stupid", in that message if I 12:56
21 may read it out. "Just asked her" -- I presume that
22 refers to you, witness A -- "just asked her friend for
23 dinner -- her friend for dinner. But I don't know why
24 she takes everything negative. Tell her I am not
25 contacting her take it easy". 12:57
26
27 Now, it was clear from that that he wasn't contacting
28 you, isn't that correct?
29 A. He just said he asked her if she would like to come

1 with her friend for dinner. So he did contact me.
2 120 Q. Indirectly?
3 A. He said if you go back to -- he said "[REDACTED] said
4 something stupid" or "he said something stupid", I am
5 not sure what the first message was. 12:57
6 CHAIRPERSON: So again that is in the previous page,
7 page 7 of 10.
8 A. "I did send stupid message to your friend [REDACTED]". So
9 he did contact me.
10 121 Q. Yes and then committed not to contact you? 12:57
11 A. Well he didn't say anything after I wrote to him about
12 the Gardaí message which you just said is denying that
13 he received.
14 122 Q. Yeah. Chair, I don't have long more to continue, so
15 therefore perhaps there is a few more questions and it 12:58
16 may be appropriate just to continue.
17 CHAIRPERSON: Happy for you to continue if witness A is
18 happy to continue without a break?
19 A. Yes.
20 CHAIRPERSON: Thank you. 12:58
21 123 Q. MR. COLLERAN: In your evidence, witness A, on Day 2,
22 towards the end of your evidence, you refer to these
23 messages that came in in 2021 from your old phone,
24 isn't that correct, at page 138, line 20? And you
25 don't think any of them were from witness B? 12:59
26 A. No, they were responding to an advertisement in
27 Vivastreet.
28 124 Q. But you assign blame to him, isn't that correct,
29 notwithstanding?

1 A. Well I said all along that I can't prove it but it is
2 very unusual that if I were to put out such an
3 advertisement, I would refer to myself as an Irish
4 lady, I don't think I would do that. So, it is
5 obviously someone who is not an Irish lady, it is 13:00
6 someone who had access to that number which was
7 inactive for, you know, since 2019. So it is somebody
8 who knew that an Irish lady had that number who was in
9 their 30's you know at that point.
10
11 And it is also somebody who spelt "personnel"
12 incorrectly which is something he has done in previous
13 messages. And it is someone who is out to slander me
14 in a most egregious way and, you know, damage my name.
15 And there is only one person that fits that criteria, 13:00
16 so I can't prove it but it is very much pointing in the
17 direction of him.
18 125 Q. So, I take it you mean even though you have no
19 evidence, whatsoever, that witness B is involved in
20 this, you blame him anyway, kind of give a dog a bad 13:00
21 name?
22 A. Well there is only one person who has been harassing
23 me, accusing me of sexual assault to organisations, you
24 know there is only one person that has been doing that
25 over the last few years and that is witness B. 13:01
26 126 Q. And sure it has to be him then?
27 A. I am just saying I was asked to be a witness here and I
28 was asked to give whatever I thought might be relevant,
29 I am not saying it is proven but I am just saying he

1 has terrorised me to such a point that, you know, I
2 can't imagine anyone else would be responsible for it.

3 127 Q. I have to put it to you that it is not him and that he
4 never engaged in this -- he had no hand, act or part in
5 this? 13:01

6 A. Okay.

7 128 Q. You don't accept that?

8 A. I am not here to prove or disprove, I am just saying
9 there is a high chance that he could be lying and there
10 is a high chance that I will never know for certain who 13:01
11 did this but it is very disturbing.

12 129 Q. I have put it to you further that he is not lying in
13 this matter?

14 A. Well he has lied about several other serious matters.
15 He has accused me of raping him to the WRC, you know he 13:02
16 has accused me of all sorts of egregious things so I am
17 not going to just take his word for it.

18 130 Q. I think we are nearly concluding. Clearly it is
19 obvious, is it not, that this has taken a toll on you?

20 A. Yes. 13:02

21 131 Q. Is it fair to characterise your reaction to this as
22 catastrophising on stilts?

23 A. I never heard that term before but when somebody who
24 you have had very little contact with, who is a senior
25 male registrar when I was a junior female intern, made 13:02
26 inappropriate messages and continually, through
27 correspondence to the Irish Medical Council, and that
28 is pretty legitimate in regards to, you know, there is
29 no one making that up or suggesting that that's false,

1 in his correspondence to the IMC, he has accused me of
2 several false allegations. He has submitted complaints
3 about me to the WRC which have no standing. So he is
4 terrorising me and I think my reaction to that is
5 reasonable because if you were being terrorised for 13:03
6 eight years you would also be very upset and very, you
7 know, affected by it.

8 132 Q. Do you not think Witness A that "terrorising" is a very
9 big word indeed?

10 A. Well I don't think it is too big a word for what he is 13:03
11 doing for eight years.

12 133 Q. Do you think that you can be reasonably accused of
13 creating a mountain out of molehill. There were
14 difficulties in interpersonal relations, even working
15 relations, whatever it was but you allowed them to get 13:04
16 out of control is that fair?

17 A. I didn't allow anything, I am the victim here, he is
18 the one who has been continuously reaching out via
19 directly to me via police complaints, complaints to
20 other organisations to my friends. He is the one who 13:04
21 is persistent in this. I don't think I have reacted or
22 overreacted inappropriately. I think he is a disturbed
23 individual and I have grave concerns about him working
24 with patients.

25 134 Q. You are aware, are you, this is by way of question, 13:04
26 that the Gardaí are not pursuing any case in this
27 matter?

28 A. Not at this time.

29 135 Q. Do you mean, by that answer, that the case is not

1 closed?

2 A. All I am saying is that when the complaints went
3 through, there was different legislation which did not
4 allow for victims of harassment to be adequately
5 protected where as now there are differences in the 13:05
6 law.

7 136 Q. And are you saying, do you think, or are you saying --
8 I have a lack of clarity about what you are saying --
9 are you saying that this matter will be resurrected by
10 the Gardaí, is that what you are saying? 13:05

11 A. I can't tell the future but I most certainly have
12 enough in regards to further things that have happened
13 since I gave evidence at this hearing which I have been
14 harassed and terrorised more that I may have to result
15 in contacting the Gardaí again. 13:05

16 137 Q. So you are saying -- you are telling the Committee that
17 since April you have been further harassed and
18 terrorised by witness B?

19 A. Absolutely, yeah.

20 138 Q. In what way? 13:06

21 A. I received correspondence --

22 MR. MCDOWELL: Before witness A answers that question,
23 I mean this is astonishing, absolutely --

24 MR. COLLERAN: It is witness A --

25 MR. MCDOWELL: -- let me finish my submission. This is 13:06
26 astonishing because when the CEO, quite fairly put
27 matters before the Committee not two weeks ago, about
28 what [REDACTED] had been up to since April, an
29 application was made that that was so prejudicial that

1 you could no longer fairly adjudicate on the case.

2
3 And now Mr. Colleran is asking the question, is asking
4 Witness A to detail precisely what has gone on since
5 April. I mean it really calls into question the bona 13:06
6 fides of the application to recuse and whether that was
7 an entire waste of both the CEO's time and the
8 Council's time.

9 MR. COLLERAN: With respect to Mr. McDowell, I think he
10 has made it his position on that application very clear 13:07
11 indeed where he questioned the motives of both the
12 lawyers and Witness B in a way that is emphatically
13 unworthy of him.

14
15 However, this matter has been brought to the attention 13:07
16 now and had to be confronted by the suggestion from
17 Witness B or Witness A that the book, as it were, of
18 the garda investigation is not closed and maybe
19 resurfaced, resurrected in some manner.

20 13:07
21 And I think it speaks to the animus that Witness A
22 holds the great animus that witness A holds for witness
23 B and I have no further questions.

24 CHAIRPERSON: Thank you, Mr. Colleran.

25 13:08
26 Just once again, for the benefit of any members of the
27 press in the gallery, reference was made to the
28 registrant by name. Can I again remind the parties
29 that we have instructed and ordered that neither

1 witness A or witness B be identified in any media
2 reporting.

3
4 So, thank you, Mr. Colleran, again for your
5 cross-examination. I will ask Mr. McDowell if there is 13:08
6 any matter that he wishes to redirect on.

7 MR. MCDOWELL: I am going to be very, very brief in
8 re-examination, Chair. So, just in order to, I
9 suppose, facilitate witness A could I just do that now,
10 I don't think it will take me more than five minutes. 13:08

11 CHAIRPERSON: I appreciate if you could, yes.

12 MR. MCDOWELL: I want to register, on the record, how
13 disappointing it is to hear this individual
14 cross-examined to the effect that she had
15 "catastrophised these events" and "made a mountain out 13:09
16 of molehill". I think that is a most unwarranted and
17 unsavoury line of questioning to have been taken in
18 respect of her and I just want to mark that. It was a
19 line of questioning that counsel was entitled to take
20 but I have to say it is disappointing. 13:09

21
22 THE WITNESS WAS RE-EXAMINED BY MR. MCDOWELL AS FOLLOWS:

23
24 139 Q. I just want to clarify one issue in relation to your
25 evidence witness A, your attention was drawn earlier to 13:09
26 the memorandum of a meeting that took place in April
27 2016, a HR meeting involving Ms. Kelly and Dr. Lee, do
28 you remember that?

29 A. Yes.

1 140 Q. And you were asked, I think, by Mr. Colleran whether
2 you had seen it before and I think that you expressed a
3 sort of -- you sort of vaguely said you think you had
4 seen it before?

5 A. I haven't seen it today but I recall. 13:09

6 141 Q. Yes. On Day 1 of the hearing in April of this year, I
7 read that document into the record and I asked you, on
8 that date, whether you had seen the document before,
9 this is on page 137 of Day 1 and you said "no".
10 13:10

11 So do you think that the first time you saw -- do you
12 still think that the first time you saw the document is
13 when I read it to you in April? It is halfway down the
14 page.

15 A. Ehm -- eh -- can I see the document? 13:10

16 142 Q. The document itself is at page -- it is behind tab 51
17 of the core book which I think is uploaded, it is a
18 separate exhibit. And then the second page of that
19 document?

20 A. Ehm -- yeah, I don't recall having seen that before my 13:10
21 evidence in April.

22 143 Q. Yes. Thank you, witness A.
23

24 Then the other document I want to ask you about, is the
25 purported text messages that you are said to have 13:11
26 exchanged with witness B in April 2019, so those
27 appear, I think, in what I think the Chair has said is
28 Exhibit 21. I don't think that is the right document?
29 CHAIRPERSON: No, so I think it is document TV

1 1719695.

2 MR. MCDOWELL: Thank you, Chair.

3 CHAIRPERSON: "Robinson's Solicitors document" it is

4 called.

5 MR. MCDOWELL: Yes, thank you. 13:12

6 144 Q. So I think your evidence, Witness A, is that you don't

7 recall sending the message on the left, isn't that

8 right?

9 A. Yes.

10 145 Q. Yes. And I think you offered a view and obviously it 13:12

11 is only your view that this document isn't a genuine

12 document, isn't that right?

13 A. Yes.

14 146 Q. Yes. And what is it about this document that leads you

15 to the view it is not genuine? 13:12

16 A. Well, first of all, I would just in 2019 I would have

17 not wanted to reach out to him, absolutely not. And

18 there is no messages above that. You know there had

19 been messages before, maybe they were deleted but you

20 know it just the picture looks a bit odd. But I, first 13:12

21 and foremost, just would not have wanted to communicate

22 with him in 2019.

23 147 Q. Yes. I am just going to draw some features of the

24 document to your attention for your comment if that is

25 okay but appreciating that perhaps if you don't feel 13:13

26 comfortable answering any of these questioning

27 obviously feel free not to.

28

29 But I wonder if it is possible for the TrialView

1 operator to zoom in on the date "30 April 2019" if
2 there is a zoom feature. I don't know if you are able
3 to zoom any further than that or if that is the
4 maximum. So, when you look at that, Witness A, is
5 there anything that strikes you about the letters and 13:13
6 numbers there?

7 A. I can't see all of it, I can just see the first couple
8 of figures.

9 148 Q. On my screen I can see the full date of "30 April
10 2019"? 13:13

11 A. Oh, I can move it. Yeah there seems to be different
12 coloured ink and there seems to be some white text on
13 the '1'. Yeah, just that's a bit strange.

14 149 Q. Yes, thank you. And then I wonder could the TrialView
15 operative zoom out, please and then zoom in on the grey 13:14
16 avatar on the top left. Anything that strikes you
17 about that, Witness A?

18 A. It is very pixilated, I can't really see it. It looks
19 a bit funny.

20 150 Q. Yes perhaps not a matter for you to comment on, Witness 13:14
21 A.

22 A. What I would say though is like, I probably had a
23 picture as my profile at that point, so I don't think a
24 picture would show if I didn't have the contact number
25 in my like phone. So, I'd question, you know, firstly 13:15
26 who this was being sent to but also it just looks -- it
27 just -- it is not something I would have done, I
28 wouldn't have reached out to him in 2019.

29 151 Q. Yes. And maybe it is not a matter for you to comment

1 on but I think the CEO's case will be that when
2 somebody is texting a number that is not saved or
3 WhatsApping a number that is not saved in their contact
4 book, it normally would appear as "+35383", rather than
5 "083". 13:15

6 A. Yeah.

7 152 Q. I don't know if you are able to comment on that one way
8 or the other?

9 A. Yeah, I thought similarly actually, yeah.

10 153 Q. And then just if I could ask the TrialView operative to 13:15
11 zoom out again, I think what Mr. Colleran said to you
12 was that --

13 MR. COLLERAN: In fairness, if there is evidence of
14 this nature being brought, then I would suggest that
15 the witness A is not in a position to offer it. 13:15

16 MR. MCDOWELL: Very good, well it is a matter for
17 submission ultimately.

18 154 Q. And then you heard Mr. Colleran's instructions that all
19 other WhatsApps except for these two messages were
20 deleted. You recall that being said to you? 13:16

21 A. Yes.

22 155 Q. Yes. And does anything strike you about the
23 proportions of the screenshot, in other words its width
24 and its length?

25 A. Yeah, I said this earlier, it is very short. You know 13:16
26 you would expect the other messages to be above it and
27 it's -- yeah it is crooked as well. It has been --
28 there is something cut off from the bottom of it, I
29 don't know.

1 156 Q. Yes. Thank you very much, witness A. I don't have
2 any further questions for you, so the Committee may
3 have some questions for you.
4 CHAIRPERSON: Thank you, Mr. McDowell. Committee
5 colleagues, do you have any questions for witness A? 13:16
6 MS. DEVINS: No, thank you, Chairman.
7 CHAIRPERSON: Thank you, Ms. Devins. Dr. Davin-Power,
8 do you have any questions?
9 DR. DAVIN-POWER: No, thank you, Chair.
10 CHAIRPERSON: Thank you. I have gone through quite a 13:17
11 lot of detail in the last few days to remind myself of
12 Day 1 and Day 2. I don't have any questions for you
13 either, witness A.
14
15 Just so it remain for me to thank you for your 13:17
16 attendance here again today. We very much appreciate
17 it.
18 A. Thank you.
19
20 THE WITNESS THEN WITHDREW 13:17
21
22 MR. MCDOWELL: So, Chair, we actually hadn't
23 anticipated finishing with witness A at this stage. So
24 what is happening now is that solicitors for the CEO
25 are trying to identify whether any of the remaining 13:17
26 witnesses are available to give evidence this
27 afternoon.
28
29 So I wonder could we reconvene at 2:30 and I will have

1 an update at that point and if I hear anything in the
2 meantime, I will obviously let Mr. Collieran know in as
3 good time as I can.

4 CHAIRPERSON: Yes, on that understanding, please do
5 make Mr. Collieran aware. We will resume at 2:30.

13:18

6
7 Mr. Collieran, is there something you wanted to?

8 MR. COLLERAN: No, thank you.

9 CHAIRPERSON: Okay. So, thank you all, we will adjourn
10 now until 2:30.

13:18

11 MR. MCDOWELL: Thank you.

12 CHAIRPERSON: Thanking you.

13 LEGAL ASSESSOR: Chairman, could I just raise an issue?

14 CHAIRPERSON: Please do.

15 LEGAL ASSESSOR: Chairman?

13:18

16 CHAIRPERSON: Please, yes.

17 LEGAL ASSESSOR: At this stage --

18 CHAIRPERSON: Sorry, do we still have the parties?

19 MR. MURRAY: No, Mr. Collieran has dropped off. So they
20 are not currently present.

13:18

21 LEGAL ASSESSOR: Okay, I can give the advice at 2:30.

22 CHAIRPERSON: Thank you.

23
24 THE HEARING THEN ADJOURNED FOR LUNCH AND CONTINUED AT
25 2:30PM AS FOLLOWS:

13:18

26
27 CHAIRPERSON: So, good afternoon all, we are happy to
28 resume this Inquiry session. Mr. McDowell, you can
29 call your next witness.

1 MR. MCDOWELL: well the sad news on that front is that
2 we haven't been able to get anybody at short notice, so
3 I am sorry about that. We had sort of slotted witness
4 A in for the day and it obviously hasn't taken that
5 long. So we tried to get other witnesses and we
6 haven't been able to.

14:36

7 CHAIRPERSON: Okay.

8 MR. MCDOWELL: So what I am going to do, in due course,
9 is just set out a sort of an indicative schedule for
10 the remaining hearing days. I know there is a legal
11 issue that Mr. McGuinness wishes to address that he
12 attempted to address before Mr. Colleran logged off.
13 So, I will deal with those --

14:36

14 CHAIRPERSON: Indeed.

15 MR. MCDOWELL: -- in whatever order you wish.

14:36

16 CHAIRPERSON: well actually that is a good point, you
17 reminded me Mr. McGuinness had something he wished to
18 say to us. So, I will hear that first of all.

19
20 LEGAL ASSESSOR'S ADVICE TO THE COMMITTEE

14:36

21
22 LEGAL ASSESSOR: Thank you, Chairman. Just a matter of
23 procedure, in fact, but a very important issue.

24
25 witness A was the first witness called before the
26 Committee to give evidence, commenced on 17th April.
27 She has now completed her evidence and obviously she is
28 a witness of some significance and I make no comment
29 about any issue raised in any part of her evidence at

14:36

1 all. But the Committee will appreciate it is at the
2 completion of the first substantial witness but there
3 are several more witnesses to come, some perhaps of
4 equal importance in the Committee's ultimate
5 consideration of the matter.

14:37

6
7 My advice to the Committee is that it ought not to
8 discuss, deliberate, comment upon the evidence of
9 witness A in any respect, at any stage when the
10 Committee is either sitting or when it is retired,
11 prior to the conclusion of all of the evidence when it
12 will become appropriate, after the conclusion of
13 submissions on behalf of the parties as well. And that
14 remains the same as far as the completion of each other
15 witness to be called is the case and the Committee
16 will, of course, understand that. I don't intend to
17 repeat that I put it down here as an important part of
18 the advice in the matter, thank you.

14:37

19 CHAIRPERSON: Thank you, Mr. McGuinness, that is very
20 helpful advice and wise advice. I can presume -- can I
21 presume that parties have no comments to make on that
22 advice

14:38

23 MR. MCDOWELL: No comment.

24 MR. COLLERAN: No comment.

25 CHAIRPERSON: We will note that, and it's very timely
26 advice. So, Mr. McDowell happy to hear your outline of
27 MR. MCDOWELL: And, sorry, I should just apologise to
28 the Chair and Committee Members for sort of wasting an
29 hour in terms of us all having to come back at half two

14:38

1 only to adjourn. So I am sorry about that, we did do
2 our best to get somebody else and it just wasn't
3 possible. So I hope I didn't inconvenience anybody.

4 CHAIRPERSON: Not at all.

5 MR. MCDOWELL: So what we are proposing is that 14:38
6 tomorrow morning at 10:30 we would call Shane Russell
7 and Claire Cullen in sequence for the purpose of their
8 cross-examination of Witness B. And then after lunch
9 Annette Kelly will give evidence. You will recall she
10 hasn't given any evidence yet, she wasn't available in 14:39

11 April. And again going back to April you will remember
12 that I described there as being two limbs to the case:

13 The first limb relates to Witness A and the second
14 standalone limb which is captured by allegation 8 in
15 the notice of inquiry is the issue of CPD, and there 14:39
16 are three CPD witnesses, two of whom available tomorrow
17 afternoon, those are Sam Kendlin Hobbs and Deirdre

18 Donegan. And then on Thursday I propose to call the
19 third CPD witness who is not available tomorrow that is
20 Dara Kavanagh. And I am also going to call the two 14:39

21 Gardaí witnesses on Thursday. So, subject to the
22 Committee, I would suggest we would sit at 10:30
23 tomorrow and at 10:30 on Thursday to deal with those
24 witnesses that I just referenced. And If, as I expect
25 we will, get through all of those witnesses, the 14:39

26 remaining aspects of the Chief Executive's case will
27 consist of the cross-examination of Dr. Lee, which
28 hasn't yet happened and he is not available this week.
29 We are going to double-check that but our instructions

1 previously were that he is not available this week.
2 And then the CEO is calling an expert witness,
3 Dr. Nick Flynn, but it is appropriate that he only give
4 evidence after all the factual witnesses have been
5 heard.

14:40

6
7 So if the CEO concludes this bank of evidence on
8 Thursday, there is probably certainly no more than a
9 day left in this Chief Executive's case. And so it
10 will obviously need to schedule that. And then it will
11 be a matter -- well I think I take from this morning's
12 evidence that [REDACTED] will go to in evidence so we
13 will deal with that as well.

14:40

14 CHAIRPERSON: Thank you very much, that is very helpful
15 outline. Mr. Colleran, is there anything you wish to
16 say or comment on?

14:40

17 MR. COLLERAN: No, that's all to be expected.

18 CHAIRPERSON: Yeah, lovely.

19 MS. DAVIN-POWER: Chair, if I may, why does it have to
20 be half past ten, could we not start at ten?

14:41

21 CHAIRPERSON: That is a matter for Mr. McDowell to
22 advise me.

23 MR. MCDOWELL: So in relation to tomorrow Dr. Russell
24 is giving evidence from Canada. So I think that half
25 ten in the morning here is already very early for him.
26 So I think we are trying to accommodate him, if that is
27 okay? And then on Thursday, the only reason I suggest
28 half past ten, is because -- is actually for the
29 selfish reason that I have a commitment at nine o'clock

14:41

1 that morning and I would just be nervous that I
2 wouldn't make it for ten o'clock. But if the Committee
3 does want to start at ten, I will do my best to make it
4 for ten o'clock, so I was only making that request out
5 of my own self interest.

14:41

6 CHAIRPERSON: Just on tomorrow at 10:30 any merit in
7 getting Dr. Cullen's cross-examination done before Dr.
8 Russell's?

9 MR. MCDOWELL: We will look into that afternoon and if
10 they can be switched around, if that can be done we
11 will let the Committee know overnight.

14:42

12 CHAIRPERSON: It is just more from the not
13 inconveniencing Dr. Russell.

14 MR. MCDOWELL: Yes.

15 CHAIRPERSON: That is the only consideration. So I am
16 happy for us to resume at 10:30 tomorrow. And if there
17 is any prospect of earlier starts on the following day,
18 this Committee is available but I appreciate your
19 constraints and we have to be respectful of your time
20 as well.

14:42

21 MR. MCDOWELL: I am grateful to the Committee. And
22 then the other thing is, I think, and I hope I speak
23 for everybody when I say that obviously everybody is
24 anxious now to try and conclude this Inquiry as early
25 as is reasonably possible. And given that we are all
26 here now, so to speak, it might be worthwhile trying to
27 identify future dates during the course of the next
28 couple of days. So, I am just making that suggestion,
29 obviously there is a lot of moving parts to get into

14:42

1 sequence.

2 CHAIRPERSON: Indeed. I think you will find the
3 Committee is probably the least of the constraints but
4 maybe, clearly we can't proceed without the Committee
5 but we can't proceed without your witnesses as well. 14:43

6 MR. MCDOWELL: Yes.

7 CHAIRPERSON: So certainly we can, as a Committee we
8 can canvass ourselves as to our availability in the
9 coming weeks. Because yes, you are right, we are all
10 anxious that this matter come to an expeditious 14:43
11 conclusion.

12 MR. MCDOWELL: Yes.

13 CHAIRPERSON: So we will go into private session after
14 this and we will just take our availability, you might
15 do likewise for your own side. 14:43

16 MR. MCDOWELL: Yes.

17 CHAIRPERSON: And Mr. Colleran might advise if there
18 are any dates that are not suitable and we can fit
19 those three things together and come up with the
20 earliest possible date. And I suggest we coordinate 14:43
21 that via the excellent Mr. Murray, who is our Executive
22 support for this Inquiry.

23 MR. MCDOWELL: Yes. That is great, thank you very
24 much.

25 CHAIRPERSON: Is that okay? So then we will adjourn 14:43
26 for today and we will resume again at 10:30 tomorrow.

27 MR. MCDOWELL: Thank you.

28 MR. COLLERAN: Thank you, Chair.

29 CHAIRPERSON: Thank you very much all.

1 THE HEARING THEN ADJOURNED TO WEDNESDAY, 30TH OCTOBER
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