

MEDICAL COUNCIL OF IRELAND

FITNESS TO PRACTISE COMMITTEE

UNDER PART 8 OF THE MEDICAL PRACTITIONERS ACT 2007

RE: REGISTRANT [WITNESS B]

REGISTRATION NO: 405670

HEARING BEFORE THE FITNESS TO PRACTISE COMMITTEE

VIA ZOOM

ON THURSDAY, 31ST OCTOBER 2024 - DAY 5

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5

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APPEARANCES

THE COMMITTEE :

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

LEGAL ASSESSOR :

MR. DIARMAID MCGUINNESS SC

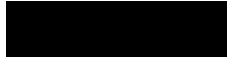
FOR THE CEO :

MR. HUGH McDOWELL BL

INSTRUCTED BY :

MS. SARA O'SULLIVAN
SOLICITOR
MESSRS. FIELDFISHER
SOLICITORS

SELF REPRESENTED :



ALSO PRESENT :

MR. ALEXANDER MURRAY
PROFESSIONAL STANDARDS SECTION OF
THE MEDICAL COUNCIL

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INDEX

WITNESS	PAGE
APPLICATION BY WITNESS B	7
REPLY BY MR. MCDOWELL	7
LEGAL ASSESSOR'S ADVICE TO THE COMMITTEE	12
SUBMISSION BY WITNESS B	13
SUBMISSION BY MR. MCDOWELL	14
SUBMISSION BY WITNESS B	16
DECISION OF THE COMMITTEE	19
 <u>MS. DEIRDRE DONEGAN</u>	
DIRECTLY EXAMINED BY MR. MCDOWELL	22
CROSS-EXAMINED BY WITNESS B	32
RE-EXAMINED BY MR. MCDOWELL	36
QUESTIONED BY THE COMMITTEE	37
 <u>GARDA KEVIN McPARTLAN</u>	
DIRECTLY EXAMINED BY MR. MCDOWELL	40
LEGAL ASSESSOR'S ADVICE TO THE COMMITTEE	42
 <u>GARDA KEVIN McPARTLAN</u>	
EXAMINED BY MR. MCDOWELL	43
CROSS-EXAMINED BY WITNESS B	59

DR. DARA KAVANAGH

DIRECTLY EXAMINED BY MR. MCDOWELL	70
CROSS-EXAMINED BY WITNESS B	77
QUESTIONED BY THE COMMITTEE	79

MR. SAM KENDLIN HOBBS

EXAMINED BY MR. MCDOWELL	81
CROSS-EXAMINED BY WITNESS B	86
QUESTIONED BY THE COMMITTEE	89

GARDA SAOIRSE NOONAN

EXAMINED BY MR. MCDOWELL	92
CROSS-EXAMINED BY WITNESS B	97
QUESTIONED BY THE COMMITTEE	100

1 THE HEARING RESUMED ON THURSDAY, 31ST OCTOBER 2024, AS
2 FOLLOWS:

3
4 CHAIRPERSON: Good morning to you all. This is an
5 inquiry by the Fitness to Practise Committee under Part 10:37
6 8 of the Medical Practitioners Act of 2007. This is
7 Day 5 of an inquiry into allegation of professional
8 misconduct and/or poor professional performance and/or
9 a contravention of the Medical Practitioners Act of
10 2007, including a provision of any regulation or rules 10:38
11 made under this act on the part of a registered medical
12 practitioner.

13
14 Although this inquiry is proceeding in public, the
15 complainant is being anonymised as "Witness A" and the 10:38
16 registrant is being anonymised as "Witness B".
17 In the event that either witness is inadvertently
18 referenced by their actual name or in a way that might
19 identify them, parties to this inquiry are ordered not
20 to disclose that identity. The transcript of this 10:38
21 inquiry will be amended as necessary to correct any
22 inadvertent disclosures.

23
24 So that is all I wanted to say. So let me just welcome
25 the parties. Good morning to you both, thank you for 10:38
26 your attendance today.

27
28 I want to just draw your attention to the matters that
29 the Committee will be unable to sit for this afternoon,

1 for reasons I don't need to disclose, but just to let
2 you know that we are not available this afternoon. So
3 I'd like to try and make progressive if we can this
4 morning and I'll invite Mr. McDowell to call his first
5 witness.

10:39

6
7 Sorry, I should say do either party have any
8 applications they wish to make before we call our
9 witness?

10
11 APPLICATION BY WITNESS B:

10:39

12
13 WITNESS B: I actually, I have application to make. I
14 made a few contact with solicitor and actually, you
15 know, I don't have any solicitor on record at present,
16 so I made a contact with a few of the legal firms. So
17 the earliest appointment that I can get is tomorrow at
18 2 o'clock. I might be able to have a solicitor or
19 legal someone on record afterwards.

10:39

20
21 So I just want to adjourn this inquiry until I have
22 that everything, and they can contact, you know, the
23 IMC for the preliminary, you know, meeting, whatever is
24 suitable for them.

10:39

25 CHAIRPERSON: Okay. Thank you, Witness B.
26 Mr. McDowell?

10:40

27
28 REPLY BY MR. McDOWELL:
29

1 MR. MCDOWELL: well, Chair, I am resisting any
2 adjournment application for all of the reasons that I
3 set out yesterday, I am not going to repeat those, but
4 again my instructions are to resist an adjournment in
5 the strongest possible terms. And I think the 10:40
6 Committee fully understands my position in that regard,
7 I am not going to repeat myself.

8
9 But I should also say in terms of proceeding today, and
10 particularly understanding that there are time 10:40
11 constraints today, the witnesses that I am going to
12 call today are witnesses to deal with and to prove CPD
13 records and garda witnesses to prove garda documents.
14 And obviously witness B has a right to cross-examine
15 those witnesses. But, in my submission, to the extent 10:40
16 there could be any prejudice to at all to proceeding
17 while the witness is unrepresented, that prejudice is
18 attenuated by the fact these are proofing witnesses to
19 prove documents, as distinct from witness who are going
20 to give what might be more controversial or contested 10:41
21 evidence.

22
23 So obviously I am not trying to shut Witness B out from
24 either cross-examining those witnesses today or in
25 extremis having them recalled on a later date but I am 10:41
26 anxious to proceed today.

27
28 The other thing just to say, and maybe we can deal with
29 this separately, but in light of the Committee's

1 constraints today what I was going to suggest was that
2 we would make as much progress this morning as
3 possible, and that after that, my application would be
4 that we fix -- we adjourn the hearing to a bank of four
5 days at some point to be determined in the future and 10:41
6 that we would -- that the hearing would take place on
7 those four days in person ,that we would resume for an
8 in-person inquiry and with the objective of concluding
9 the case in its entirety.

10
11 My case, to conclude, won't take more than two day and
12 that gives Witness B as long as he needs, or assuming
13 he won't be more than two days, but if he is then so be
14 it. But I do just think that, you know, and this is no
15 criticism of anybody at all, but I think this has 10:42
16 proven to be a case which isn't suitable for a remote
17 hearing in lots of different ways and I think that it
18 would just accelerate things and make things more
19 efficient if we were to resume and have a clean run at
20 in-person inquiry for a few days. 10:42

21 CHAIRPERSON: Thank you for that, Mr. McDowell. So
22 recognising you're not represented, Witness B, I will
23 just try to explain there. First of all, did what Mr.
24 McDowell say makes sense to you or do you have any
25 questions on his perspective? 10:42

26 WITNESS B: I am not a solicitor, I am not a legal
27 person, so probably what I would say that I don't think
28 it is a fair hearing.

29 CHAIRPERSON: You don't think it is fair for us to

1 proceed to hear witnesses who are proving the existence
2 of documentation?

3 WITNESS B: The garda documents are seriously
4 compromised.

5 CHAIRPERSON: Okay. 10:43

6 WITNESS B: what I believe because --

7 CHAIRPERSON: Yeah.

8 WITNESS B: -- but my -- this was the reason, when I
9 presented the handwritten document to my previous
10 barrister he was shocked and I mean he was looking at 10:43
11 my face, I mean he say, 'are you sure you are telling
12 the truth'? So garda document are seriously
13 compromised but I am not a solicitor or, what you call,
14 barrister or --

15 CHAIRPERSON: That's understandable. So we understand 10:43
16 your application is you wish to adjourn.

17 WITNESS B: The only that I would say there, it would
18 not be a fair hearing, which is my right, when we don't
19 have equality of arms when you are -- when the CEO is
20 having support of all legal representative and I am on 10:43
21 my own, I don't think it will be a fair hearing. You
22 can proceed, whatever you want.

23 CHAIRPERSON: So I understand you, you believe that the
24 garda statements are likely to be controversial from
25 your perspective. Can I ask, do you have similar 10:44
26 concerns about the documentation in respect of CPD?

27 WITNESS B: You see, my -- regarding the CPD, there is
28 no controversy. I accept that there was years in past
29 that I was not compliant, and there is no doubt about

1 that. And what my position is, I was not the only one
2 who was not compliant, and I have cover up my, you
3 know, whatever the -- whatever the CPD, I was supposed
4 to complete 250 CPD in five years and I have done more
5 than 250 CPD in 2020.

10:44

6 CHAIRPERSON: Yeah, no, I understand that point. So,
7 first of all, I am not considering what you have said
8 as an admission to that allegation because you are not
9 represented and you have the entitlement to contest the
10 allegation. My question is much more specific:

10:45

11 Mr. McDowell would like to proceed with witnesses that
12 he has once again assembled to talk to the CPD limb of
13 this case.

14
15 My question is specifically; do you have concerns about
16 the documentation that relates to the CPD in the same
17 way you have concerns about the garda documentation?

10:45

18 WITNESS B: There is no documentation released by CPD,
19 you know, so I have no concern about the documentation.

20 CHAIRPERSON: You have no concern. That is very
21 helpful. Thank you for that, witness B.

10:45

22
23 I am going to ask if my Committee colleagues have any
24 questions in respect of either the adjournment request,
25 or indeed the position that Mr. McDowell has outlined,
26 the suggestion he has outlined?

10:45

27 MS. DEVINS: No. Thanks, Chairman, I've nothing.

28 DR. DAVIN-POWER: And same here, no comment. Thanks.

29 CHAIRPERSON: Thank you. Mindful, Mr. McGuinness, that

1 you have given the Committee advice before in this
2 matter but is there anything you would like to say in
3 respect of considering the adjournment application?
4

5 LEGAL ASSESSOR'S ADVICE TO THE COMMITTEE

10:46

6
7 LEGAL ASSESSOR: Thank you, Chairman. Obviously in the
8 light of what Witness B has said, it would appear that
9 he is intent on getting representation, if he can.

10:46

10 It would appear also that he is perhaps unprepared to
11 cross-examine the guards in relation to his contentions
12 that the process is corrupted or wrong in some way.
13 However, Chairman, the Committee itself would be
14 mindful of the process that it had previously adopted
15 of taking the evidence as far as it could do and in a
16 way that would not prejudice Witness B's position.
17

10:46

18
19 It would appear from his stance in relation to the CPD
20 witnesses, and it is a matter for the Committee to
21 determine, whether there is likely to be any prejudice
22 in the light of his attitude towards that if the
23 Committee hears that evidence in its totality today.

10:47

24
25 The Committee then is left with the issue in relation
26 to proceeding to take the evidence of the garda
27 witnesses.
28

10:47

29 And obviously the Committee, in my advice to the

1 Committee, should be mindful of the fact that when it
2 previously took the direct evidence of witnesses it did
3 so in a manner that wasn't prejudicial to Witness B's
4 rights because it allowed for, in relation to those
5 witnesses, a subsequent possible cross-examination. 10:47

6 The advantage on one view of it -- and it may be the
7 Committee would be anxious to hear from the parties on
8 this -- is that if the garda evidence is taken on any
9 resumption, that is without cross-examination, Witness
10 B and/or his advisors would have the benefit of having 10:48
11 the transcript of that and the Committee would have
12 made some progress.

13
14 Alternatively, the Committee are entitled to consider
15 whether they should take the entirety of the garda 10:48
16 evidence and require Witness B to cross-examine the
17 garda witnesses today. I am not sure whether
18 Mr. McDowell intends to call one or more one garda
19 witnesses in that regard. But the Committee has heard
20 evidence relating to the taking of statements and the 10:48
21 production of those statements so taken to Witness A.
22 So it has heard that evidence, and that's a possible
23 relevant factor in the consideration of the Committee.

24 WITNESS B: Can, I want to say something?

25 CHAIRPERSON: Please do. 10:49

26
27 SUBMISSION BY WITNESS B:

28
29 WITNESS B: The thing is, you know, this system when

1 you take the evidence, and then you give me the
2 transcript, and then I have to explain everything to
3 the barrister it turned out to be nightmare for me.
4 The two-day transcript, I mean the way -- I mean this
5 was the issue when I was trying to explain the things 10:49
6 to my previous barrister that 'this is what witness A
7 is trying to tell, and this is right, in this
8 circumstances she is right, in this circumstances the
9 Tom Lee is right'. He was, I mean he was totally
10 confused. And even the day before yesterday he want to 10:49
11 get out of the record, even before yesterday, you know,
12 he said 'I am not able to understand what is going on
13 here'. So probably this, I don't think that will work
14 in any way favour it will be prejudice to me. Because
15 if you take the statement and you don't cross-examine 10:49
16 immediately everything, you know, get out of your head
17 and it -- and it's just like you come another time you
18 are giving -- witnesses has to have it two, you know,
19 they have to come twice, and they have to go through
20 the same thing again and again. I don't think it will 10:50
21 be in the best interest of anyone to take the evidence
22 first and then cross-examine on the next hearing, I
23 don't think that will be in the best interest of
24 anyone.

25 CHAIRPERSON: Thank you, that's very clear. 10:50
26 Mr. McDowell, do you have any comments on that advice
27 from Mr. McGuinness?

28
29 SUBMISSION BY MR. McDOWELL:

1
2 MR. MCDOWELL: No, just to say two things: The first
3 is that I was intending to call two garda witnesses,
4 Kevin McPartlan and Saoirse Noonan.

5 CHAIRPERSON: And are those individuals available to
6 give --

10:50

7 MR. MCDOWELL: I can see Kevin McPartlan is in the
8 waiting room and I am told Saoirse Noonan is available
9 today. So those are two gardaí.

10
11 We did get an e-mail from Robinson's when they were on
12 record to say that -- which raised this question about
13 handwritten notes of an interview, I can't recall if
14 that matter was mentioned before Mr. Colleran before
15 the Committee or not but he mentioned it to me anyway.
16 So, it seems that witness B wants to agitate that issue
17 and maybe that requires cross-examination. But
18 certainly I haven't heard any basis put forward for
19 impugning the integrity of, whatever it is that Garda
20 McPartlan is going to say, so we can at least get
21 through him. But in my submission you should deal with
22 both and let witness B cross-examine on a later date.

10:50

10:50

10:51

23
24 The other point to make, I mean, and I know the
25 Committee knows this, I am not going to labour the
26 point, I mean at what point can -- I mean witness B is
27 now talking about moving onto his third firm of
28 solicitors in relation to this inquiry and, you know,
29 at what point is the Committee going to say that he

10:51

1 can't simply keep going through firms of solicitors and
2 then relying on that to postpone or adjourn this
3 inquiry, I mean there has to be some limit to the
4 extent which he can manipulate the system like that.
5 So I'm just making that point.

10:51

6 CHAIRPERSON: Yeah, I understand that point and the
7 Committee is aware of it.

8 WITNESS B: Yeah --

9 CHAIRPERSON: But, just to say, before you respond
10 Witness B, the Committee has already noted that the
11 most recent departure of counsel was not as a result of
12 Witness B's actions but it was the actions of his
13 counsel.

10:52

14
15 SUBMISSION BY WITNESS B:

10:52

16
17 WITNESS B: You see when Mr. Hugh McDowell will use,
18 you know, abusive language at me, I will have to
19 respond. It is Mr. Hugh McDowell who is manipulating,
20 it is Mr. Hugh McDowell who is constantly, you know,
21 trying to cover up the, you know, the wrongdoing.
22 I mean his primary duty is towards the court, not the
23 client. He is trying to manipulate and he is the one
24 who is getting benefit by this inquiry, he is being
25 paid by the public money since 2019 up until today, he
26 is the partner of the Fieldfisher, so he is getting
27 money from both hands, he is the one who is abusing the
28 system, not me.

10:52

10:52

29 CHAIRPERSON: I understand the point you're making but

1 I just think it is important for the record to say that
2 he has not used any abusive language or has abused the
3 process in any way. In fact this Committee has noted
4 that Mr. McDowell has been very accommodating and has
5 arranged for witnesses to come to this inquiry on
6 multiple occasions and hasn't been able to proceed with
7 his case.

10:53

8
9 There is no cover up, and I would like to reject that
10 suggestion in the strongest possible terms.

10:53

11 Mr. McDowell, as a professional, has a responsibility
12 to bring the CEO's case and he brings that case without
13 fear or favour, he is bringing the evidence to this
14 Committee. So I just would like to remind you, as I
15 said yesterday, Witness B, this inquiry is into matters
16 that relate to you, and we want to make sure this
17 inquiry proceeds fairly but expeditiously. I take the
18 points you've made in respect of how difficult it is
19 when you have to explain to new counsel but I would not
20 accept the contention that he has in any way abused his
21 position or the process here.

10:53

10:53

22
23 So I have heard what the parties have to say. Witness
24 B, you might just address the point that do you have a
25 position in respect of Mr. McDowell's suggestion about
26 continuing an inquiry, or rescheduling an inquiry for
27 four days in-person. Do you have anything to say about
28 an in-person inquiry or a block of four days, as has
29 been suggested?

10:54

1 WITNESS B: To be very honest, I think it will be
2 appropriate that the inquiry should happen in-person

3 CHAIRPERSON: Okay.

4 WITNESS B: Because the reason behind that, you see, I
5 have interest in two countries, Ireland, Pakistan and
6 the UK. When you put things on media, people -- I mean
7 previously you put that thing in the media and people
8 start going to my home, family home, in Pakistan and
9 they start disturbing me. You have no idea what will

10 be the -- what could be the consequences of those
11 things, you know. I mean to be very honest, it is
12 very -- I mean what should I say? It is very unfair to
13 me, even if I have done something wrong, that my family
14 back in Pakistan is being harassed, and they are badly
15 harassed, and you have no idea what could be the
16 consequences. There are a lot of minorities who live
17 in my country as well. I mean putting these things in
18 the media, I seriously doubt that is the right way to
19 go forward.

20 CHAIRPERSON: Well, first of all, to say I am very
21 sorry to hear that your family are in any way harassed,
22 that is unacceptable, and that is certainly not the
23 intention of the conduct of this inquiry. But just to
24 remind you that the inquiry, if it proceeds in person,
25 it will be a public inquiry because that is the default
26 position. So I just want to make that clear to you.
27 But from what I have heard you say, you have no
28 objections, in fact you seem to have a preference that
29 we would conduct this inquiry in person, is that --

1 WITNESS B: Yes, in-person, yes, I understand in-person
2 not on camera, that is fine

3 CHAIRPERSON: Yeah, no, I understand. Yeah, I
4 understand. That is very helpful, I really appreciate
5 that, Witness B. Then I think the Committee will
6 retire into private session to consider the application
7 for an adjournment.

10:56

8
9 THE HEARING THEN ADJOURNED FOR A SHORT RECESS AND
10 CONTINUED AS FOLLOWS:

10:56

11
12 DECISION OF THE COMMITTEE:

13
14 CHAIRPERSON: Thank you very much all for your
15 patience. So, having carefully considered the
16 submissions of both parties and the legal advice from
17 Mr. McGuinness, the Committee has decided to reject the
18 request for an adjournment at this point. We feel that
19 it is appropriate to progress with witnesses that
20 Mr. McDowell wishes to call, specifically the CPD and
21 garda witnesses.

11:03

11:03

22
23 We feel that it would possibly be more productive, or a
24 suggestion we would like to make, rather than a
25 direction, a suggestion, Mr. McDowell, is perhaps if
26 one of the garda witnesses is available now, that we
27 proceed with that garda witness, first of all. But we
28 are in your hands obviously.

11:03

1 In respect of the suggestion to have an in-person
2 inquiry, given that both parties seem to be agreeable
3 to that, we would be happy to continue in-person. And
4 a block of four days, if that can be arranged at the
5 convenience, then we can certainly look to schedule
6 that.

11:04

7
8 So we will continue today -- witness B, just for your
9 benefit to say, we will continue today to hear
10 witnesses. We note your objections to that.

11:04

11
12 Just to say also that the transcript of today's
13 proceedings, as all other days proceedings, will be
14 made available overnight so that will you have an
15 opportunity to bring that transcript to your new legal
16 counsel, such that they can scrutinise the evidence and
17 prepare themselves to cross-examine the witnesses.

11:04

18 WITNESS B: So the thing is I will meet my, you know,
19 legal representative tomorrow. So on the basis of that
20 I mean we will decide whether we should go in-person or
21 what you call.

11:05

22 CHAIRPERSON: Yeah, yeah. No, absolutely. And I
23 understand that that's a decision, if you wish to make
24 an application to continue remotely, you can do that as
25 well. But the request has been made that we switch to
26 an in-person inquiry when we schedule further days and
27 the Committee is open to that. We are open to hearing
28 objections as well, if there are objections.

11:05

1 So on that basis, Mr. McDowell, I don't know if I have
2 made it more difficult for you but the Committee is now
3 in your hands and we are happy to hear your witnesses.
4 MR. MCDOWELL: Thank you Chair.
5 CHAIRPERSON: Just to say, Witness B, you are still 11:05
6 unmuted so you might just mute Witness B so that
7 there's no inference
8 MR. MCDOWELL: And, Chair, I should just say that that
9 is all understood. And my application, whether you
10 hear it now or later, or just I suppose to make the 11:05
11 point that the CEO's position is that once you
12 reschedule for a further bank of dates, that the matter
13 proceeds on those dates, unless there are really the
14 most extreme extenuating circumstances to justify not
15 proceeding whether witness B has legal representatives 11:06
16 or not, the case must simply proceed on the adjourned
17 dates. That is the CEO's position but I am not sure
18 you need to say anything about that yet.
19 CHAIRPERSON: well that is understood
20 MR. McDOWELL: Yes. 11:06
21 CHAIRPERSON: And I hope that witness B will be in a
22 position to secure legal counsel and that will
23 certainly help the process so.
24 MR. MCDOWELL: So, Chair, I have heard your preference
25 to hear from a garda witness first. There is, one of 11:06
26 the CPD witnesses has a difficulty later so I wonder
27 could I call her first and then go to the Garda, if
28 that is okay?
29 CHAIRPERSON: Please do, I am in your hands.

1 MR. MCDOWELL: Yes, so I am going to call
2 Deirdre Donegan, please.

3 MR. MURRAY: Good morning, Ms. Donegan. You might just
4 confirm that you can hear us okay? You just need to
5 unmute your microphone and activate your camera, 11:06
6 please. Ms. Donegan, can you hear us okay? For
7 reference, Chair, it looks like she has logged on but
8 just has her camera and mic muted.

9 MS. DONEGAN: Hi, sorry about that, I was just in the
10 middle of trying to close something when you popped up 11:07
11 there for me.

12 MR. MURRAY: That's no problem. I am assuming you can
13 hear me okay?

14 MS. DONEGAN: Yes, I can, thank you.

15 MR. MURRAY: That's great. And just before you give 11:07
16 your evidence, you need to be sworn in.

17 MS. DONEGAN: Okay.

18 MR. MURRAY: So you can either swear on a holy book, if
19 you happen to have one to hand, or you can affirm --

20 MS. DONEGAN: Sorry, you are breaking up a little bit. 11:07

21 MR. MURRAY: Can everyone else hear me okay? So before
22 you give evidence you need to be sworn in.

23 MS. DONEGAN: Mm-hmm

24 MR. MURRAY: So you can either swear on a holy book, if
25 you have one, or you can affirm and attest? 11:07

26 MS. DONEGAN: I can do an affirm and attest.

27

28 MS. DEIRDRE DONEGAN, HAVING AFFIRMED, WAS DIRECTLY
29 EXAMINED BY MR. MCDOWELL, AS FOLLOWS:

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CHAIRPERSON: Good morning to you, is it Dr. or
Ms. Donegan?

A. Ms.

CHAIRPERSON: You are very welcome. My name is Paul
Harkin, I am the Chair of this Inquiry Committee, I am
not a medical practitioner. Other members of the
Committee include Dr. Mary Davin-Power and Ms. Mary
Devins. 11:08

A. Okay. 11:08

CHAIRPERSON: With the Committee is our legal assessor,
Mr. Diarmuid McGuinness, Senior Counsel. So thank you
again for your attendance today. I suspect you have
probably been discommoded several times for matters
beyond all our controls, my apologies for any
inconvenience we have caused you in getting to your
evidence. But we are happy to hear from you and I will
hand over -- 11:08

A. Okay. You can't win I guess.

CHAIRPERSON: That's exactly right. I will hand you
over to Mr. McDowell now. And before I do, can I just
say, remind -- sorry I didn't explain -- that the
registrant in this matter has been anonymised as
"Witness B" so I would ask that you refer to the
registrant as "Witness B", not by their name 11:09

A. Witness B, okay.

CHAIRPERSON: And, witness B, while I have you I notice
your microphone is unmuted -- sorry, is unmuted -- so
if you could just mute your microphone please, witness

1 B, just to stop -- yeah, thank you, that's very much
2 appreciated. Sorry, Mr. McDowell, I will hand over to
3 you.

4 1 Q. MR. McDOWELL: Thank you Chair. So, Ms. Donegan, you
5 are an administrator in the Royal College of Physicians 11:09
6 in Ireland, isn't that so?

7 A. Yes.

8 2 Q. And you have responsibility for continuous professional
9 development or CPD, isn't that right?

10 A. Yes. 11:09

11 3 Q. And could you explain to the Committee what you do in
12 that role?

13 A. Okay. In our department as such is the central point
14 for managing the various schemes in RCPI, because
15 there's one for each training body. So we are the 11:10
16 central point and what we look after is the enrolment,
17 the enquiries, and the ePortfolio, you know, that
18 people have access to that, if they have trouble,
19 troubleshoot for them, just give them advice, keep it
20 up-to-date, things like that. So that's essentially 11:10
21 it. And we also, you know, try and send out
22 communications regularly to people to keep them
23 up-to-date and remind them if they need to fill in
24 things or whatever. So, that's in a nutshell.

25 4 Q. And it is correct to say that a registered medical 11:10
26 practitioner is required to be associated with a
27 training body, isn't that right?

28 A. That's my understanding, it's from the framework, yeah.

29 5 Q. And the RCPI is one such training body of which there

1 are several?
2 A. The RCPI is not in itself a training body, there's the
3 six faculties and institutes within the RCPI are the
4 actual training bodies, so we have six professional
5 competent schemes within our CPI. 11:11
6 6 Q. Yes.
7 A. One for Oc Med, one for Institute of Medicine, one for
8 Pediatrics, one for Obstetricians, one for Pathology.
9 7 Q. Yes.
10 A. I think I got them all there. 11:11
11 8 Q. And a registered medical practitioner is required to be
12 associated with one of those --
13 A. Yes.
14 9 Q. -- competent schemes, whether it is with the RCPI or
15 with a different both body, isn't that right? 11:11
16 A. Correct, yes.
17 10 Q. And I think you understand, and evidence will be given
18 in due course, that in that connection a registered
19 medical practitioner has to complete a certain number
20 of hours of CPD per annum, isn't that so? 11:11
21 A. That's right, yes.
22 11 Q. And they evidence the fact that they have done that by
23 logging material with the RCPI, is that so?
24 A. Sorry, there was a sort of a, some sort of feedback
25 there. Did you say by logging their activities? 11:11
26 12 Q. Well, sorry, let me ask the question a different way.
27 A. Yeah.
28 13 Q. How does a doctor go about satisfying the Medical
29 Council that they have completed their annual

1 allocation of CPD?

2 A. They are supposed to go to the ePortfolio that I

3 mentioned and record the activities in that ePortfolio

4 because that has the capacity then to summarise the

5 information against the various categories and to go, 11:12

6 yes, you have added in enough activities or not added

7 in enough activities.

8 14 Q. Yes, and that is an ePortfolio that is managed and

9 operated by the RCPI, isn't that so?

10 A. Yes, that's correct. 11:12

11 15 Q. Yes, yes. I am now going to ask TrialView to open up

12 tab 61 of the core book or to upload and open tab 61 of

13 the core book?

14 A. Okay. I can't find my mouse to find the tab.

15 16 Q. No, sorry, you don't have to do anything, Ms. Donegan, 11:12

16 it will come up on your screen so just bear with me?

17 A. Oh, okay, perfect, perfect.

18 17 Q. So I don't think what is on screen is the correct tab,

19 it is tab 61. And I wonder if the TrialView operative

20 could scroll to the second page, please? So, sorry, I 11:13

21 wonder is it possible just to sort of have the bottom

22 of the first page and the top of the second page, I

23 don't know if that's possible, or else maybe then we

24 will start on the first page?

25 A. I have a copy of that e-mail I think. 11:13

26 18 Q. So could I ask TrialView to go back to the first page

27 for a moment?

28 MS. O'NEILL: Sorry, apologies, it's Ashling here from

29 TrialView. Sorry, I just completely froze there, I

1 wonder if you could just repeat that?

2 19 Q. MR. McDOWELL: Sorry, thanks, Ashling, I wonder could
3 you just go back to the first page please for a moment,
4 and then scroll down to the bottom please?
5 11:14

6 So you see there that, Ms. Donegan, this is an e-mail
7 that you wrote on the 9th October 2023?

8 A. Mmm mm.

9 20 Q. And you see that it is sent to siobhanchampion@mcirl,
10 which is the Medical Council, and Sam Kendlin Hobbs of 11:14
11 the Medical Council?

12 A. Yeah.

13 21 Q. And we are going to hear from Sam Kendlin Hobbs later.
14 And then just scrolling down further you e-mail them
15 and you say: 11:14
16

17 "Good morning, Siobhán and Sam.
18

19 Thelma Russell ask me to forward the annual statement
20 for [Witness B] for the period the 1st May 2015 to 30th 11:14
21 April 2020.
22

23 Happy to help with any questions you may have on this".
24

25 A. Yeah. 11:14

26 22 Q. You wrote that e-mail?

27 A. That was me.

28 23 Q. Yes. And then if TrialView could scroll down further.
29 To the next page. Thank you. And if you just scroll

1 down to the bottom half of that page. So we see
2 there -- so could you just describe what this document
3 is?

4 A. Okay. This is a copy of the annual statement that is
5 issued and the doctor can download that as a PDF from 11:15
6 their ePortfolio. It's the content in it was agreed
7 originally and I think most of the training bodies have
8 a very, very similar, they might not be laid out
9 exactly the same, but they will have the same kind of
10 information on it. Basically it names the doctor and 11:16
11 give the Medical Council number as you can see. And
12 what they call the recording speciality, which is the
13 area of practice that they are doing most often, I
14 think will explain that. And the year of enrolment was
15 the year that that doctor who got that statement 11:16
16 enrolled for the first time in 2014.

17 24 Q. And then, sorry, Ms. Donegan, just to interrupt, so
18 that person enrolled with the RCPI in 2014, is that
19 right?

20 A. Yeah, with -- I think they would have been with, yeah, 11:16
21 the Irish Committee on Higher Medical Training, General
22 Division Scheme there, that would be one of the six
23 training bodies that we have.

24 25 Q. Yes. And the relevant 12-month period in which one has
25 to register 25 hours runs from May to April, isn't that 11:16
26 right?

27 A. Correct, yes.

28 26 Q. You see the second half of the page that there are --
29 A. Yeah.

1 27 Q. -- entries for the year ending April '16, April '18,
2 April '19, and April 20?
3 A. Yeah.
4 28 Q. And do I understand, taking the two columns on the
5 right-hand side, that in order for 'requirement met' to 11:17
6 say 'yes', one much reach 25 in the second last column,
7 25 hours?
8 A. At the time that statement was issued you had to have
9 20 external, 20 internal, five personal learning, and
10 then the remaining five credits of 50 could be made up 11:17
11 in any way. It's currently, since Covid, there was a
12 reduction in the credits. But at that time, when that
13 statement was issued, they were the requirements.
14 29 Q. Yes. And so am I correct in saying what that document
15 demonstrates is that Witness B had not complied or had 11:17
16 not provided evidence of compliance with the CPD
17 obligations through that particular professional
18 competent scheme in those four years that are listed?
19 A. Correct that.
20 30 Q. Yes. 11:17
21 A. Table shows you that there was one hour of activity
22 recorded.
23 31 Q. Yes. And you notice then that there is a gap for the
24 period 2016 to 2017. And before I ask you to comment
25 on that -- 11:18
26 A. Mm-hmm.
27 32 Q. -- I am going to ask that TrialView would open appendix
28 1 to the witness statement of Sam Kendlin Hobbs. And
29 if you would just bear with me, Ms. Donegan, while that

1 is being opened.

2 A. Okay.

3 33 Q. Thank you. And I would ask if Trialview could please go
4 to page 36. So, Ms. Donegan, I think this is, you'll
5 see that we saw an e-mail from you on the 9th October 11:19
6 2023. I think what we see at the bottom here is that
7 Mr. Kendlin Hobbs, from the Medical Council, replies to
8 you and says:
9

10 "Hi Deirdre, 11:19
11
12 I'd one clarification, is it possible to confirm
13 whether [Witness B] was enrolled with them for the
14 period 1 May '16 to 30th April '17, in circumstances
15 where this period doesn't feature on the statement of 11:19
16 participation?"
17

18 A. Yes.

19 34 Q. And if we scroll up you respond:
20 11:19
21 "Hi Sam,
22
23 The Annual Statement is designed to show the relevant
24 Professional Competence year plus the previous four
25 enrolled years (e.g. if the doctor was enrolled on a
26 prior year, then the year would appear on the
27 Statement).
28
29 Regarding the 2016-2017 year, we do not retain data

1 that is more than six years old".

2

3 And then you provide an e-mail for future queries?

4 A. Yeah.

5 35 Q. So do I understand that to mean -- sorry, maybe you 11:19

6 could just explain then why there is no entry for

7 2016-2017 on the statement that you e-mailed?

8 A. Okay, the access to record in the portfolio is tied to

9 whether or not the person paid a renewal for the

10 relevant year. So, in this instance, the doctor had 11:20

11 not renewed for one of the years. So, therefore, it

12 didn't appear on his statement because there was no

13 data to go into the statement.

14 36 Q. Yes.

15 A. So and then he came back and signed up again and that's 11:20

16 why you get that blank year, you know.

17 37 Q. Yes, very good. So do I take your evidence then to be

18 that he was an active registrant with that particular

19 professional competent scheme for the years ending

20 April '16, April '18, April '19 and April '20? 11:20

21 A. Yeah, and then the one year he was missing, yeah.

22 38 Q. Yes, very good.

23 A. Sorry, I was just trying to picture it in my head while

24 you were saying it.

25 39 Q. Yes, very good. Thank you, Ms. Donegan. I don't have 11:20

26 any more questions for you.

27 A. Okay.

28 40 Q. Witness B might have some questions for you or the

29 Committee might have some questions for you.

1 CHAIRPERSON: Thank you, Mr. McDowell and once again
2 thank you, Ms. Donegan. I should have said that
3 witness B is appearing here today without legal
4 counsel. So I'll ask witness B if he has any questions
5 for you. 11:21

6 A. Okay.

7 CHAIRPERSON: It may be that he has to ask you further
8 questions through his counsel on another day. But for
9 the moment, witness B, do you have any questions for
10 this witness? So I am not sure if we have lost 11:21
11 witness B's connection there. He was perhaps trying to
12 unmute.

13 MR. MURRAY: Yeah, it looks like witness B has dropped
14 off.

15 CHAIRPERSON: Yes, so if you just bear with us a 11:21
16 second.

17 A. Okay, no problem.

18 WITNESS B: Can you hear me now?

19 CHAIRPERSON: I can hear you, I can't see you. Your
20 camera seems to be switched off. But do you have any 11:22
21 questions for this witness?

22

23 MS. DONEGAN WAS CROSS-EXAMINED BY WITNESS B AS FOLLOWS:

24

25 41 Q. WITNESS B: Yeah. So the first thing, I mean I have 11:22
26 two/three question, very simple question.

27 A. Yeah.

28 42 Q. When this CPD thing was started in Ireland?

29 A. Yes. When did it start in Ireland? On 1 May 2011.

1 43 Q. okay. And I have one of your research paper in that
2 which saying that, I mean this was done in -- just let
3 me open this -- it's submitted in the BMJ and it was
4 submitted by -- you are also the member, Deirdre
5 Donegan, to examine experience of the participation in 11:22
6 the mandatory system of the continuous professional
7 development among doctor in Ireland. And it's
8 something like 1,400 participants, 700 male and 707
9 females were in the register. The result was thematic
10 analysis result in five main themes relating to the 11:23
11 perceived barrier to the PCS participation across a
12 wide range of the areas. Evidence of participation,
13 the structure of PCS questionnaire, there were a lot of
14 I mean things that you have discussed, but the
15 conclusion, yes, I mean there was a lot of barrier why 11:23
16 the participant was not able to, you know, enrol, were
17 not able to interact, were not able to submit, I mean
18 in professional competence scheme.
19
20 So if say that I was not the only one who was not able 11:23
21 to submit the evidence, more than 50 percent of the
22 people on general register were not able to do so, is
23 it correct?
24 A. This was a research paper you are referring to. There
25 is -- I worked on assembling the data, I didn't write 11:23
26 the paper myself or write the conclusions. So I'm not
27 sure if I am the right person to answer to the actual
28 paper. There is definitely, there are people,
29 certainly you're not the only person who has not met

1 requirements, but I think that is outside this hearing.

2 44 Q. No, but I am asking simple question; is it correct that
3 more than 50 percent of the doctor in general register
4 were not able to complete this requirement because on
5 this paper -- 11:24

6 A. That would have been at the time of the research paper?

7 45 Q. Yeah. And the second question that I would like to ask
8 you that do RCPI have any policy for disability person,
9 or people who are sick, or something like that?

10 A. In general if a person is ill -- and this is not the 11:24
11 RCPI policy, this is the general policy -- that they
12 need to record an absence from practice. And then they
13 get an annotation on their statement. But it needs to
14 be recorded in the ePortfolio so that the statement can
15 be annotated. 11:24

16 46 Q. So if I can --

17 A. And if we're not informed of that, we would always
18 advise a doctor who informed of any disability, or
19 anything that prevented them, to take that step.

20 47 Q. When was this policy was come on record because as far 11:25
21 as I remember up to 2019 is was -- I mean I never
22 receive any e-mail or I never saw any of these policy
23 in RCPI, so do you remember when this policy was first
24 put on the record?

25 A. That policy has always been in place, it's been on our 11:25
26 website and it's in our FAQs.

27 48 Q. Okay, FAQ, so definitely is in FAQs. That's -- thank
28 you very much. And one more question that I want to
29 say, because there's a lot of doctors who were not able

1 to complete and they were sent reminder, they were
2 given the instruction that they have to complete 250
3 points in five-year period, am I correct?
4 A. Say -- not in five-year period; annually.
5 49 Q. No, no -- 11:25
6 A. And, sorry, 50 credits per year as opposed to -- I mean
7 I think the interpretation has to be 50 credits per
8 year, not -- because somebody potentially could do 250
9 credits at the end of fifth year, so that wouldn't make
10 sense -- 11:26
11 50 Q. But I think what I'm saying --
12 A. -- so it has to be annually, yeah.
13 51 Q. No, if someone who is not able to complete and would
14 they be allowed to complete a deficit in next year?
15 A. That's not the policy in general for professional 11:26
16 competence. It needs to -- you would be asked to try
17 and meet the requirements for the existing year.
18 52 Q. Yeah. But what if being other medical practitioner was
19 given?
20 A. I am sorry, you froze? 11:26
21 53 Q. So can you hear me?
22 A. Yes.
23 54 Q. Because I knew a lot of medical practitioner were given
24 this opportunity to complete the deficit in previous
25 year by, you know, let's suppose if I am deficit of 100 11:26
26 CPD and I couldn't record, and that doctor were given
27 this opportunity to fulfil that requirement in next
28 year and to make sure they have 250 points in five-year
29 period, am I correct, that doctor had been given this

1 opportunity?

2 A. I'm not aware of that.

3 55 Q. Okay. Because I knew a few other doctor who were given
4 this opportunity. They couldn't complete 50 points, so
5 let us suppose in 2013 I was not able to complete what 11:27
6 15 points, and I mean I cannot lie that I did not, I
7 didn't complete it, so what they were given the
8 opportunity to have another 20 points in 2014. So
9 probably my consultant, Mr. Tom Lee and they were given
10 this opportunity, so that's why I know that. 11:27

11 CHAIRPERSON: so does that conclude all your questions
12 for this witness?

13 WITNESS B: Yeah, thank you.

14 CHAIRPERSON: Thank you very much, witness B.
15 Committee colleagues, do you have any questions for 11:27
16 this witness?

17 MS. DEVINS: I've no questions. Thanks again.

18 CHAIRPERSON: Thank you.

19 MR. McDOWELL: Chair, I wonder could I ask one question
20 just by way of re-examination? 11:27

21 CHAIRPERSON: I'm very sorry, Mr. McDowell, please.

22 MR. McDOWELL: Thank you.

23

24 MS. DONEGAN WAS RE-EXAMINED BY MR. McDOWELL AS FOLLOWS:

25 11:28

26 56 Q. MR. McDOWELL: Just, Ms. Donegan --

27 A. Sorry, there's a lot of feedback, I couldn't hear that.

28 57 Q. Sorry, Ms. Donegan, can you hear me now?

29 A. Yes, I can hear you.

1 58 Q. Just arising from what Witness B put to you, I mean in
2 broad terms, I am not asking for a sort of statistical
3 analysis, in broad terms what are the compliance rates
4 like amongst RCPI-registered doctors with their CPD
5 obligations? 11:28

6 A. Well I'd say, it's difficult to say at this stage
7 because what does happen is people don't -- maybe don't
8 do well in their annual statement because they forgot
9 to record some things, so we ask, we give them some
10 opportunity in the, you know, in the following year to 11:28
11 backfill anything they forgot to record for that year.
12 So we have a compliance rate at the time the statement
13 is generated and generally after they have seen the
14 results of their statements and they make their
15 corrections the compliance rate goes up. I think we 11:28
16 get -- it depends on sometimes the circumstances of the
17 year but about 70% I'd say is compliant, 100%, some
18 people are just very mildly missed one or two things,
19 you know.

20 59 Q. Yes. 11:29

21 A. It's so variable because it really depends on the
22 scheme, on the type of practice, on the you know --

23 60 Q. Very good. Thank you, Ms. Donegan.

24 A. Okay.

25

26 MS. DEVINS: Chair, I have a question.

27 CHAIRPERSON: Please, please.

28

29 MS. DONEGAN WAS THEN QUESTIONED BY THE COMMITTEE,

1 AS FOLLOWS:

2
3 61 Q. MS. DEVINS: Thank you, Ms. Donegan. I may be wrong
4 here but when you're registering with the Medical
5 Council --

11:29

6 A. Yeah.

7 62 Q. -- as you register is it not an obligation to upload
8 your certificate of completion?

9 A. I'm not sure that would be something the Medical
10 Council would handle because when they do their renewal 11:29
11 there's the Medical Council site, and I don't have --
12 I've never tried to renew my Medical Council
13 registration so I'm not 100%. But I think perhaps Sam
14 Hobbs could be the person to answer that one for you.

15 MS. DEVINS: Thank you, thank you.

11:30

16 WITNESS B: I can answer, if I can answer this
17 question? Before 2019 you only have to make a
18 declaration that 'are you enrolled or are you not
19 enrolled'? And after 2019 the wording was changed and
20 it was like 'did you complete the CPD requirement, yes 11:30
21 or no'? So it was a change after 2019 like in 2020, so
22 that change I remember

23 CHAIRPERSON: Thank you very much for that, witness B.
24 I'm sure we will hear more from Mr. Kendlin Hobbs on
25 that matter. I don't have any questions for this 11:30
26 witness.

27
28 So I just want to take this opportunity once again to
29 thank you for your attendance today. I again offer my

1 apologies for any inconvenience that we have caused you
2 in our scheduling.

3 A. I hope the information I gave was helpful.

4 CHAIRPERSON: It was very helpful. Thank you very
5 much. 11:30

6 A. Okay. Thank you.

7 CHAIRPERSON: Take care.

8 A. Good day.

9 CHAIRPERSON: Good day to you too.

10

11 THE WITNESS WITHDREW

12

13 MR. MCDOWELL: So thank you, Chair. So assuming that
14 he is still in the waiting room, the next witness I am
15 going to call is Kevin McPartlan who is a garda. 11:31

16 WITNESS B: Is it possible when you bring in Mr. Kevin
17 McPartlan, can you bring the document in my handwritten
18 statement that I give to you, can you bring that on the
19 system as well when I cross-questioning?

20 MR. MCDOWELL: I'm not sure what statement Witness B is 11:31
21 referring to?

22 WITNESS B: well that was given, that was sent by Ali
23 to Ms. Sarah in one of the e-mail, a handwritten
24 statement.

25 MR. MCDOWELL: Yes, the handwritten statement is going 11:31
26 to be presented, yes.

27 WITNESS B: Yes, that's what I want.

28 MR. MCDOWELL: Yes.

29 WITNESS B: Thank you, thank you.

1 MR. MURRAY: Good morning, Garda McPartlan, can you see
2 and hear us okay?
3 GARDA McPartlan: Good morning, can you hear me?
4 MR. MURRAY: I can hear you fine, can you hear me?
5 GARDA McPartlan: Yes, correct, thank you. 11:31
6 MR. MURRAY: Right, and just before you give your
7 evidence, you need to be sworn in.
8 GARDA McPartlan: Yes
9 MR. MURRAY: So you can either swear on a holy book, if
10 you have one to hand, or you can affirm and attest. 11:31
11 GARDA McPartlan: I have the Bible here with me.
12
13 GARDA KEVIN McPARTLAN, HAVING AFFIRMED, WAS DIRECTLY
14 EXAMINED BY MR. McDOWELL, AS FOLLOWS:
15 11:32
16 CHAIRPERSON: Good morning, Garda McPartlan
17 A. Good morning.
18 CHAIRPERSON: My name is Paul Harkin, I am chairing
19 this Inquiry Committee here today, I am not a medical
20 practitioner. Other members of the Committee include 11:32
21 Dr. Mary Davin-Power and Ms. Mary Devins. Ms. Devins
22 is also not a medical practitioner, Dr. Davin-Power is.
23 With the Committee also is Mr. Diarmaid McGuinness, who
24 is the legal assessor to the Committee.
25 11:32
26 So I want to start by just pointing out that the
27 registrant in this case has been anonymised as "witness
28 B" and I'd appreciate if you could refer to them as
29 "witness B".

1
2 And just before I hand you over to Mr. McDowell for the
3 CEO, who will take you through your evidence, I just
4 wanted to offer our apologies for any inconvenience
5 that we may have caused you in the scheduling of thi 11:33
6 inquiry. We've had a number of disruptions, so my
7 apologies if we've caused you any inconvenience.
8 A. That's fine, thank you.
9 63 Q. MR. MCDOWELL: Good morning, Garda McPartlan?
10 A. Good morning. 11:33
11 64 Q. My name is Hugh McDowell, I am a barrister acting on
12 behalf of the Chief Executive of the Medical Council.
13 I think you are a member of An Garda Síochána and in or
14 around 2019 to 2021 you were attached to Mill Street
15 Garda Station in Galway, is that right? 11:33
16 A. That's correct, yes.
17 65 Q. And are you still attached to that garda station?
18 A. No, I'm not.
19 66 Q. And I think that maybe you recall or, sorry, do you
20 recall interactions involving [Witness A] who is 11:33
21 Witness A, we will call her "Witness A", and [Witness
22 B] who we will call "Witness B"?
23 A. I do recall that, yes.
24 67 Q. Yes. And what I'm going to do is I am going to bring
25 you to a book of garda statements that have previously 11:34
26 been opened to the Committee?
27 A. Yes.
28 68 Q. And they're going to be put up on the screen in front
29 of you now in a moment.

1
2 Just while those are coming up, just to mention to the
3 Committee, I will be guided by the Committee and by Mr.
4 McGuinness as to whether the Committee wishes me to
5 read these statements out prior to Garda McPartlan 11:34
6 proving them, or whether it is satisfied for me just to
7 show him the documents and prove that they are
8 statements that he took, assuming he is going to say
9 that. So I will be guided by the Committee on that
10 front. Some of these statements have already been read 11:35
11 out to the Committee in the course of witness A's
12 evidence.

13 A. Understood.

14 CHAIRPERSON: I will take advice from Mr. McGuinness at
15 this point if you feel it is necessary, Mr. McGuinness, 11:35
16 for us to have it read into the record?
17

18 LEGAL ASSESSOR'S ADVICE TO THE COMMITTEE
19

20 LEGAL ASSESSOR: Chairman, my advice is that it is not 11:35
21 necessary, it is a matter of choice for Mr. McDowell in
22 the presentation of his case as to whether he feels he
23 is required to do it. Obviously witness B can deal
24 with it in whatever way he thinks fit when it comes to
25 his turn, as it were. 11:35

26 CHAIRPERSON: Mm-hmm.

27 LEGAL ASSESSOR: Obviously the fact, as Mr. McDowell
28 points out, that witness A gave evidence of the making
29 of the statement could provide a basis for the

1 Committee deciding that it is not necessary in itself
2 for it to be read verbatim into the record at this
3 stage. Obviously if there's a challenge to any
4 recording of any part of it that needs to be dealt
5 with, either by clarification or by cross-examination, 11:36
6 the statement can be gone into without any difficulty.

7
8 GARDA KEVIN McPARTLAN CONTINUED TO BE EXAMINED BY
9 MR. McDOWELL AS FOLLOWS:

10
11 69 Q. MR. McDOWELL: Thank you. So maybe if I could ask
12 Trialview to go to page 2 of the book.

13
14 So this, Garda McPartlan -- sorry, that is page 2 and
15 3 -- is a statement which witness A has told the 11:36
16 Committee she made to you on the 20th May 2019. And
17 without reading it out, you will see on the second page
18 that it's said to be signed by her and witnessed by
19 you. Are you in a position to confirm that that
20 statement was made by her and signed by you on that 11:36
21 date?

22 A. Yes, I recall that and it was witnessed by witness A by
23 signing it and I also witnessed her signature.

24 70 Q. Yes. And then if I could bring you on to page 5?

25 A. Yes, I'm on page 5. 11:37

26 71 Q. Yes. So this is a further statement made by witness A,
27 which is said to be made in your presence, and it is in
28 essence a continuity statement following on from the
29 statement she made to you in May 2019, and you will see

1 the last sentence on the second page says:

2
3 "This statement was presented to me on the
4 2nd September 2020 and, following corrections, I signed
5 it on the 2nd October 2020". 11:37

6
7 So was that a statement taken by you, Garda McPartlan?

8 A. It wasn't taken by me in person at the time, it was
9 compiled by I suppose by phone just to -- and conveyed
10 then to witness A for review and signing that they were 11:37
11 satisfied that that contained the pertinent details
12 that they wished to convey to me.

13 72 Q. Yes, yes. And then if could ask you to look at page 9.
14 This is a further statement, which is said to be a
15 statement of witness A taken by you, and it runs to 11:38
16 four pages. And again at the end it says:

17
18 "This statement was presented to me on the
19 2nd September 2020 and, following corrections, I signed
20 it on the 2nd October 2020". 11:38

21
22 A. Yes, and, similar to that, I believe Covid would have a
23 part to play in that. And it was again signed by
24 witness A and conveyed back to me then.

25 73 Q. Yes. Then do you recall -- can I then ask you to go to 11:38
26 page 14?

27 A. Yes.

28 74 Q. So, I wonder, before we look at this document, can you
29 give your best recollection of the circumstances of the

1 complaint made by witness A on the 20th May 2019?

2 A. At the initial point of contact, on speaking to witness
3 A, there was an allegation and a concern outlined to me
4 in respect of a gentleman who she believed was in
5 Galway and who had texted her. So being logical about 11:39
6 it, I made contact with the person who had texted and I
7 spoke to the individual who was [Witness B] and he
8 informed me that he was in Galway, so I invited him in
9 to speak to me. Given the fact that there was a
10 possibility that there had been unwanted texts, I 11:39
11 invited him to make a cautioned memo to me which is on
12 a voluntary basis, he agreed to that. And this
13 document would pertain to that and the encounter that
14 we had which he signed at the end --

15 75 Q. Yes. 11:39

16 A. -- which is in a question/answer format.

17 76 Q. And just looking at the introductory paragraph to that
18 statement it says "Voluntary Caution Memo Witness B",
19 it then gives an address. Sorry, just going back up,
20 sorry, you see it gives an address in Strokestown and 11:39
21 then an address in Edenderry, and then it says it is
22 taken the 6th July 2018 and then it says on the
23 20th May 2019, are you able to account for that?

24 A. Yeah, I can account for it, from memory anyway, it
25 serves me I believe witness B had an address in 11:40
26 Edenderry but were working I believe in Roscommon at
27 the time.

28 77 Q. Yes.

29 A. That may have been a typo on my behalf when I was

1 inputting it because obviously it was wrote down where
2 he was at the time but then it may have been clarified
3 in his permanent address then.

4 78 Q. Yes. But is your evidence that the statement was taken
5 on the 20th May 2019? 11:40

6 A. That's correct, yeah, that voluntary caution memo was
7 taken on the 20th, yes.

8 79 Q. Yes. And I'm just going to quickly read that
9 statement, that voluntary caution statement, into the
10 record. So: 11:40

11

12 "Q. Do you understand the caution?
13 A. Yes".

14

15 And then signed in your presence, Garda McPartlan. 11:40

16

17 "Q. [Witness B], are you here of your own free will?
18 A. Yeah.

19 Q. Are you happy to speak to now - Without a
20 solicitor?
21 A. Yeah".

22

23 And then signed again and witnessed by you.

24

25 "Q. [Witness B], what is your phone number?" 11:41

26

27 And then a phone beginning with 089 is given by answer:
28

29 "Q. [Witness B] do you have sole possession of your

1 phone?

2 A. From last Friday, yes, I have the phone sometimes I

3 leave it with my secretary but I have it since Friday

4 all the time.

5 Q. Have you used the phone to text anybody you would

6 not normally contact this weekend?

7 A. Yes, [Witness A].

8 Q. What did you text her?

9 A. I just invite her for a programme at the Roisin

10 Dubh.

11 Q. Have you other phones?

12 A. Currently I have a phone but I haven't used it for

13 a year.

14 Q. What number, is it?"

15

16 Answer, a number beginning with 083.

17

18 "Q. Have you any foreign numbers?

19 A. I had in the past but I have no recollection.

20 Q. Why would you text [Witness A] out of the blue? 11:41

21 A. Well I came to Galway for some other business and

22 we have some grievance and I want to clarify those

23 grievance.

24 Q. What grievance are they?

25 A. Misunderstanding in the past that, ah, we had 11:41

26 exchange of words that should not happen, harsh words,

27 and I want to clarify them.

28 Q. What kind of words were said?

29 A. I don't recollect now but we were not talking to

1 each other.

2 Q. When people don't talk there is usually a reason.

3 Would it be fair to say [Witness A] didn't want to

4 speak to you?

5 A. I don't know. 11:42

6 Q. When did you last speak in person?

7 A. I don't remember exactly.

8 Q. Roughly?

9 A. Maybe in 2016, I don't remember exactly.

10 Q. That is a long time ago and what did you both say 11:42

11 then?

12 A. Well it's very hard to remember it but we ended in

13 not a good way. How you say, I just feel guilty and I

14 want to reconcile.

15 Q. Did [Witness A] tell you to leave her alone? 11:42

16 A. She never used this word.

17 Q. Did she convey to you that she did not wish to

18 contact or see you?

19 A. I have a very vague remember of 2016 but she say

20 something like, I don't remember. 11:42

21 Q. You don't have to remember exact words verbatim but

22 you were aware that you should not contact her?

23 A. She was angry at that time and it is usually

24 temporary and I feel it will resolve in time.

25 Q. How many times did you text her this weekend? 11:42

26 A. Two by messages and two by WhatsApp, and I changed

27 the WhatsApp number to contact her again.

28 Q. So you didn't contact her any other way?

29 A. I tried to call her once.

1 Q. On your phone?
2 A. Yes
3 Q. What number?
4 A. The same 083 number.
5 Q. I put it to you that she got text message from you 11:43
6 on your other numbers?
7 A. Okay, on WhatsApp you can change your number every
8 single second. I use a word system, it is not on any
9 bad language.
10 Q. What do you mean use different numbers? 11:43
11 A. WhatsApp you are changing number.
12 Q. Why would you do this to [Witness A]?
13 A. Well I was emotionally involved with her.
14 Q. Surely this is not normal to keep changing your
15 number? 11:43
16 A. On WhatsApp it is.
17 Q. On WhatsApp you're doing it to upset her?
18 A. Yeah, but I didn't mean to upset her.
19 Q. Do you need help with your sense of right and
20 wrong? 11:43
21 A. I have counselling in the past.
22 Q. What country are you from?
23 A. Pakistan.
24 Q. Any family, girlfriend?
25 A. Relationship in UK. And it ended up 6-8 months ago
26 and trying to get into marriage, not arranged, but it
27 ended.
28 Q. So you now start pestering [Witness A] again, is
29 that not true?

1 A. I Was trying to communicate with her to establish
2 communication.
3 Q. Why annoy her now?
4 A. Simply to establish communication if she text me,
5 "no stop" I will stop immediately.
6 Q. I am telling you now that [Witness A] does not want
7 anything to do with you on any level. She is afraid of
8 you and your texting and phone calling. What do you
9 say to this?
10 A. I will not contact her again in any way. I am
11 sorry for my behaviour.
12 Q. I am also telling you not to contact her friends or
13 colleagues, to try to apologise in any way, as this
14 will be seen as further efforts to contact [Witness A].
15 A. Yes, fine, I understand.
16 Q. Has the voluntary caution memo been read over to
17 you?
18 A. Yeah.
19 SIGNED: [Witness B]".
20
21 So is that an accurate record of your interview with
22 Witness B on the 20th May 2019?
23 A. It is, correct, yes.
24 80 Q. And insofar as you are presenting an understanding to
25 him of the situation, I take it that that was on foot
26 of the complaint that Witness A had made to you?
27 A. Yeah, that was based on the initial complaint on the
28 initial context of the conversation I had with Witness
29 A.

11:44

1 81 Q. Yes. Then at page 19 there is a statement that you
2 made, Garda McPartlan, and the date of that statement I
3 think is the 15th January 2021, is that right?

4 A. Correct, yes.

5 82 Q. And again I'm just going to read that statement into
6 the record. It says:

7
8 "I am a member of An Garda Síochána attached to Galway
9 Garda Station. On the 20th May 2019 i was on duty at
10 the Public Office in Galway Garda Station. [Witness A]
11 attended the office and wished to make a complaint in
12 relation to alleged harassment she was subjected to
13 from a former doctor colleague. I spoke to [Witness A]
14 in relation to the matter and she informed me that she
15 had received a text from an unknown number asking her
16 to meet in Munroe's Pub in Galway. [Witness A] was
17 distressed and she was convinced it was her former
18 Colleague, namely, [Witness B], whom she said she had
19 previously received unwanted communications from in the
20 past. [Witness A] was very concerned as to how
21 [Witness B] knew she was in Galway and that he had
22 travelled there to try to meet her. I said that the
23 only way to confirm her concerns was to contact the
24 number and speak to the sender which I undertook to do
25 from the main switch board of the station, which she
26 consented to. I contacted the number and I spoke to
27 [Witness B]. I was informed by him that he was in
28 Galway and I invited him to attend the station to speak
29 to me, which he said he would do. I informed [Witness

1 A] that it was indeed [Witness B] and said that he was
2 calling in to meet me. [Witness A] left the station
3 and I informed her that I would contact her back when I
4 had spoken to [Witness B]. When [Witness B] arrived at
5 the station I spoke to him and confirmed his identity
6 and I invited him to make a voluntary cautioned
7 statement about his texts to [Witness A]. [Witness B]
8 conducted a voluntary cautioned memo with me at Galway
9 Garda Station on the 20th May 2019. When the memo was
10 conducted (sic) [Witness B] signed the memo. I
11 witnessed [Witness B]'s signature and he signed each
12 page of the memo. I advised [Witness B] to not make
13 any further contact with [Witness A] and he undertook
14 to not contact her in person or on any other platform.
15 I contacted [Witness A] and advised her that I had
16 spoken to [Witness B] and cautioned him to stop
17 contacting her. I asked [Witness A] to provide to me
18 copies of the texts she had referred to in her
19 statement of complaint which she forwarded to me via
20 e-mail. A number of days later I became aware that
21 [Witness B] had made a counter-allegation against
22 [Witness A] to Garda Saoirse Noonan in Tullamore Garda
23 Station. I awaited the contents of the complaint made
24 by [Witness B] and I advised [Witness A] of the
25 complaint made against her and that we would have to
26 speak to her in relation to the matter. On the 7th
27 September 2019 in my absence Garda Máire McGrath met
28 With [Witness A] in Galway Garda Station and took a
29 Voluntary caution memo from her in relation to [Witness

1 B]'s complaint. Following on from this I wished to
2 speak further to [Witness B] but I was unable to reach
3 him on the phone number I received from him. I was
4 also made aware that the matter had been reported to
5 the Medical Council by both Doctors and it was an
6 ongoing matter with them also. I later became aware
7 that [Witness B] had become ill since we had last
8 spoken and he had returned to Pakistan while he was
9 ill. [Witness B] returned to Ireland in January 2020
10 and made contact with me and let me know that he had
11 returned. On the 1st February 2020 I contacted
12 [Witness B] by phone and I invited him to attend Galway
13 Garda Station to view screenshots of the text messages
14 supplied to me by [Witness A]. [Witness B] declined to
15 meet me and he did not wish to make any further comment
16 on the matter. In the following months I prepared a
17 file with a view to making a submission to the DPP. As
18 part of my work I compiled an exhibits chart in respect
19 of screenshots of the unwanted texts received by
20 [Witness A]. I was in contact With [Witness A] and
21 [Witness B] to keep them apprised on the status of the
22 investigation. On the 21st of July 2020 [Witness A]
23 contacted me and informed me that she had received more
24 unwanted texts on the 17th & 18th of July 2020 and she
25 believed them to be from [Witness B]. I contacted
26 [Witness B] to asked him if he had made any contact
27 with [Witness A] and he denied any form of contact with
28 her since May 2019. I obtained the screenshots of the
29 unwanted text messages from [Witness A] on the

1 18th August 2020 by e-mail. On the 21st September
2 [Witness B] e-mailed to say he had returned to
3 Pakistan, was out of the country. On the 8th October
4 2020 I received statements from [Witness A] in respect
5 of the new unwanted text messages she received in July
6 2020. The screenshots of the unwanted text messages
7 were compiled into the exhibits chart in chronological
8 order. On the 9th October 2020 I received a
9 confirmation from the Telecommunications Liaison Unit
10 that [Witness B] was the registered subscriber for
11 phone number [beginning with 089] which had made
12 unwanted contact with [Witness A] on the 19th & 20th
13 May 2019. This statement has been read over by me and
14 it is correct".
15

16 So is that an accurate statement, Garda McPartlan?

17 A. Yes, that statement was compiled by me.

18 83 Q. Yes. I now wonder -- and, sorry, I don't think I have
19 forewarned my solicitor of this, so this might just
20 take a second, but I wonder if I could ask that tab 55
21 of the book --

11:49

22 MS. DEVINS: Sorry, Chairman, and Mr. McDowell, if I
23 just might interrupt for a second, I think my signal is
24 again fluctuating, so if there is no objection I will
25 stop the camera?

11:49

26 CHAIRPERSON: Thank you, Ms. Devins. There is no
27 objections, I understand you have internet problems, so
28 you can mute your camera.

29 MS. DEVINS: Thank you.

1 MR. McDOWELL: Sorry, this might just take a second.

2 CHAIRPERSON: Yeah, while that's doing, I notice,
3 witness B, your camera is muted at the moment. If it's
4 convenient for you to unmute it, please do, but thank
5 you.

11:49

6 LEGAL ASSESSOR: Chairman?

7 CHAIRPERSON: Yes, Mr. McGuinness?

8 LEGAL ASSESSOR: Just I might usefully use this time to
9 advise you, Chairman, that obviously we have had a

10 couple of inadvertent mentions of witness A and witness

11:50

11 B, and we are sitting in public, and obviously anyone

12 observing in the public forum or gallery should be

13 reminded that an order has been made that both of these

14 witnesses be anonymised, and that it's not appropriate

15 for anyone to identify them by any means outside the

11:50

16 forum.

17 CHAIRPERSON: Thank you, Mr. McGuinness. That is a

18 very helpful reminder and I am happy to re-emphasise

19 that order has been previously made. So any members in

20 the public gallery who have heard the names are ordered

11:50

21 not to disclose them further.

22
23 Our stenographer recording the transcript will make

24 appropriate amendments to the transcript. So thank you

25 for that very helpful reminder.

11:51

26 MR. McDOWELL: So for TrialView's purposes I am looking
27 for a document, 171-1367.

28 CHAIRPERSON: Has this been opened to us before?

29 MR. McDOWELL: It has, certainly I raised it at the end

1 of day two of the last hearing
2 CHAIRPERSON: Okay.
3 MR. McDOWELL: I can't remember if it was actually
4 properly opened, I think we deferred it at that stage.
5 But tab 55 of the core book and it is 171-1367. 11:51
6 CHAIRPERSON: Thank you.
7 MS. O'NEILL: Hi again, it's Aisling from TrialView, I
8 am not locating that particular document. I just want
9 to make sure it has been made public on TrialView after
10 it was uploaded? 11:52
11 MR. MURRAY: It is under court bundles core book and
12 then 55 Telecoms Liaison Unit Report.
13 MR. MCDOWELL: Yeah, yeah.
14 MR. MURRAY: 171-1365 (sic).
15 MR. McDOWELL: Yeah, it's the last document under core 11:52
16 book in the court bundles.
17 MS. O'NEILL: Is this, does this look?
18 84 Q. MR. MCDOWELL: Thank you, Aisling.
19
20 So just going onto the second page of that, could you 11:52
21 just explain, before I look at the specific of this
22 document, Garda McPartlan, could you just explain what
23 these documents are?
24 A. Just to clarify I am not an expert in this field
25 either, hence, we relay any information that we require 11:52
26 through the specialised unit. They can find and have
27 access through all the different vendors for any person
28 that is in I suppose a subscriber or a user of a
29 particular phone number, i.e. in this instance we had a

1 number of different numbers that we wanted to try and
2 see if we could identify who held them. This unit was
3 able to supply us with relevant information pertaining
4 to the numbers supplied. And they were able to
5 identify that witness B was a subscriber for one of the 11:53
6 numbers that we had requested information on.

7 85 Q. And is it your understanding, Garda McPartlan, that the
8 relevant unit of An Garda Síochána can contact mobile
9 phone service providers to acquire this data?

10 A. Yes, through the proper formalities and procedures that 11:53
11 information can be made available to us.

12 86 Q. Yes. So on the first page we see about a third of the
13 way down -- sorry, the second page excuse me -- we see
14 a third of the way down, it says "request for
15 subscriber details" and then there's a number that 11:53
16 begins 089 and ends 183, you see that? This is just
17 up -- no, sorry a bit further up on the page?

18 A. Ah, yeah, I see the number, yeah, I see that anyway.

19 87 Q. Yeah, the mobile number is there. And then the details
20 down below, it gives a subscriber name: 11:54
21

22 "Tesco. [Witness B]. Subscriber address: Wexford
23 Town, Wexford. Activation date: 7th February 2017".
24

25 You see that? 11:54

26 A. That, correct, yes I see that.

27 88 Q. And that result you'll see just above that, at the top
28 of that box, that result comes from 3 Ireland?

29 A. That's correct, that's what's on the document, yes.

1 89 Q. That is dated the 23rd September 2020 at just the top
2 right?
3 A. Correct, yes.
4 90 Q. And then the next page there's a request for subscriber
5 details for an 083 number that ends 269, do you see 11:54
6 that? Just under your name?
7 A. Yes.
8 91 Q. And this document is dated the 22nd April 2021?
9 A. Yes.
10 92 Q. And then we see the box towards the bottom it's a 11:54
11 result from Vodafone, it gives a subscriber name of
12 Witness B with an address in Wexford, and an activation
13 date of the 7th December 2016 and a termination date of
14 the 30th January 2020?
15 A. That's correct. 11:55
16 93 Q. Yes. Thank you very much, Garda McPartlan, you might
17 answer any questions that Witness B has for you?
18 CHAIRPERSON: Thank you. And before I invite Witness
19 B, just for Garda McPartlan's benefit, to say that
20 Witness B is appearing currently without legal 11:55
21 representation. So he -- I am going to invite him to
22 ask any questions he may have for you but just to flag
23 to you that when he does secure legal representation it
24 may be necessary to recall you to be cross-examined by
25 his counsel. 11:55
26
27 Witness B, as this point in time do you have any
28 questions for Garda McPartlan?
29 WITNESS B: Yeah, I will have very few small questions,

1 you know, to confirm the point that Mr. McDowell has
2 raised, just to clarify.

3 CHAIRPERSON: Please do

4 WITNESS B: Is it okay?

5 CHAIRPERSON: Please do.

11:56

6
7 GARDA McPARTLAN WAS CROSS-EXAMINED BY WITNESS B AS
8 FOLLOWS:

9
10 94 Q. WITNESS B: So, Mr. McDowell, can you please put up my
11 handwritten complaint?

11:56

12 MR. MCDOWELL: So, yes, that document should be on
13 TrialView, I am just going to help -- yes, so if
14 TrialView could, if you go to the court bundles and
15 it's the third last court bundle, "Robinson Solicitors
16 documentation data access request". And it is
17 TrialView 171-4591.

11:56

18 95 Q. WITNESS B: Can you please go down? Can you go down
19 further, please? Yeah, that's so, go up a little bit,
20 go up. Go up. Go up. Yeah, that's okay. Just keep
21 it here, okay.

11:56

22
23 So good morning, Mr. McPartlan?

24 A. Good morning.

25 96 Q. I remember you, you know, I met you on 20th May. There
26 are a few questions that I want to raise. You said I
27 was not in Galway when you called me, thank you for
28 clarifying that.

11:57

1 The second question is how many people were there in
2 the room when you were conducting interview?
3 A. Myself and yourself that I recall.
4 97 Q. And there was a third person as well, do you remember
5 that? 11:57
6 A. The sergeant went up to the room with us, I recall
7 that.
8 98 Q. Yeah, and did he hit the table after -- did he hit the
9 table or not?
10 A. I believe you're referring to something that I don't 11:57
11 know if I'm in the right area to clarify that or to
12 engage with you on that.
13 99 Q. And did I get confused afterwards when he hit the
14 table?
15 A. Pardon? 11:57
16 100 Q. Did you find myself very confused afterward when he hit
17 the table?
18 A. No, sorry, you weren't confused. But I believe you are
19 trying to refer to something that I'm not aware I was
20 to be questioned about. 11:58
21 101 Q. That's why, so probably there were three people in the
22 room, you accept that, yes?
23 A. No, there was just me and you in the room.
24 102 Q. But third person came in, yes?
25 A. There was a third person when we went up there first, 11:58
26 yes.
27 103 Q. Yeah, okay. And he hit the table as well, that's okay.
28 So the second question to me, there's a number here,
29 you know, the complaint number, where's the complaint

1 number in this complaint?

2 A. Pardon, I don't understand what you mean?

3 MR. MCDOWELL: The document we're looking at here is a

4 handwritten note of a complaint of Garda Noonan's

5 statement. 11:58

6 WITNESS B: Yeah, yeah, so what I'm seeing there --

7 MR. MCDOWELL: This is very little to do with Garda

8 McPartlan, just to flag that.

9 104 Q. WITNESS B: First, my question is when I see the, you

10 know the PID number from my complaint and Witness A 11:58

11 complaint is the same. Is this a normal practice that

12 you put the two complaint in the same number?

13 A. I believe that you may be referring to if there is a

14 number of allegations pertaining to the same

15 individuals a case would then be compiled. 11:59

16 105 Q. No, but the thing is they're the same PID number for my

17 complaint and Witness A complaint, and the same person

18 is investigating. Is this the normal practice or not

19 normal practice, simple answer?

20 A. I don't understand. 11:59

21 106 Q. See when someone here complain to the garda, they give

22 him an incident in PULSE number, you know, how to

23 recognise your complaint, which is called in PULSE

24 number or PID number, am I correct?

25 A. When someone makes a complaint there is a PULSE ID 11:59

26 number allocated to that individual case, yes.

27 107 Q. Yes, and is it the normal practice that I have the same

28 complaint number and Witness A has the same complaint

29 number?

1 A. I don't fully understand what you mean by different,
2 you are both involved in the same case.

3 108 Q. We are both involved in the same case but we both have
4 an allegation and what I understood when I went to the
5 Tullamore Garda Station, we both will be assigned a 12:00
6 different PULSE number and there will be two different
7 garda who will be investigating our allegation. What I
8 am simply asking; is this a normal practice that one
9 garda investigate the allegation of two people?

10 A. I wasn't privy to what you were informed in Tullamore. 12:00

11 109 Q. Okay.

12 A. But I can confirm that if there are two same
13 individuals dealing with the same matter, then it would
14 be the one garda would be investigating it.

15 110 Q. Okay. That question is it normal practice that you 12:00
16 send typed -- typed statement and you don't send
17 handwritten statement to the DPP?

18 A. Well we can send both, depending on which they want.

19 111 Q. So in my case you didn't send the handwritten
20 statement, am I correct? 12:01

21 A. Handwritten statement of what particular statement?

22 112 Q. So of mine and the witness A?

23 A. The DPP was provided with all statements pertaining to
24 the case.

25 113 Q. But when the document received by the Medical Council, 12:01
26 my handwritten statement was not in that?

27 A. I cannot account for what the Medical Council received
28 from the DPP.

29 114 Q. Okay, okay, that's fine. And can you go up a little

1 bit, my handwritten statement, can you go up? Can you
2 please make a little up? Mr. McDowell, can you ask
3 them to make a little up so that I can show the number,
4 pin number. Can you see here page number 1?

5 A. Yes. 12:01

6 115 Q. Yeah, go down. Can you please go down? Go down
7 further. Can you see page number 4? Go up, go up, go
8 up. Page number 4. Can you see page number 4?

9 A. I can see page on the screen here, I believe it says 4
10 there, yeah. 12:02

11 116 Q. And can you go a little up please? Yes, so after our
12 messages regarding behaviour and body language, does it
13 make any sense to you, messages regarding behaviour and
14 body language?

15 A. Sorry, now I have no prior reading of this recently so 12:02
16 what are you asking me, sir?

17 MR. MCDOWELL: I don't think the witness can ask this
18 garda these questions because he has nothing whatsoever
19 to do with this document

20 WITNESS B: You see the thing is, I think I can ask 12:02
21 this question because my two pages of the complaint has
22 been taken away on those pages, I have given the detail
23 of the -- any repeat call I was receiving. And then
24 these two pages are taken away from the record, the
25 incomplete complaint was investigated, and all those 12:03
26 things that would provide my innocence has taken away.
27 This is the biggest point I want to raise there.

28 CHAIRPERSON: Okay, I understand that point you're
29 making, witness B, and you're perfectly entitled to

1 make that point. But be clear this -- you are
2 referring to a document that was produced by a
3 different garda in a different garda station.

4 117 Q. WITNESS B: No, this was a document that has been
5 investigated by Garda McPartlan, and this is the 12:03
6 document that has been provided to me. Can you go up
7 first page ? First page, first page. Yeah so I got
8 this, you know, the data protection subject access
9 request, so this was the complaint that has been
10 investigated by Garda McPartlan. And there's a serious 12:03
11 concern about the missing pages, pages 2 and 3, that
12 include that incidents where I was receiving call. I
13 gave them a detail what was happening, and all those
14 things. All those number has never verified. If those
15 number would have verified, we would have complete 12:04
16 different picture. So that's what my point that I want
17 to raise.

18

19 The second question I want to ask Mr. McPartlan: You
20 call me on 21st August 2020, did you remember you were 12:04
21 asking about my health, and all those things, did you
22 remember that day?

23 A. I have a very vague recollection of a number of our
24 encounters are on the phone.

25 118 Q. Yeah. 12:04
26 A. But to ask me to recall verbatim would be very
27 difficult for me.

28 119 Q. But when you call someone from the office, do you make
29 any -- do you make any -- I mean can you call anyone

1 from the office, or do you make any attempt that I call
2 someone on this day, and this day, or you can call
3 anyone from the office?

4 A. No, I do recall that in Mill Street, the garda station,
5 there was only two phone that would make I suppose 12:04
6 international calls, if that's what you mean, sir.

7 120 Q. No, no, I am asking about in 2020 you called me in
8 Ireland on my Irish number and you are asking that
9 witness A has received further messages and she is
10 worried about your health and you can talk to her on 12:05
11 messages. This happened on 21st of August 2020 when I
12 was in Ireland, I told you very clearly that I had no
13 interest to talk to her, I don't know who is texting
14 her. Did you remember that conversation on phone?

15 A. My apologies, I do not understand or can understand 12:05
16 what you're trying to convey to me at this time, sir.
17 Could you speak a bit slower?

18 121 Q. Okay. So did you remember that you call me on
19 21st August 2020 when witness A allegedly told you that
20 I have sent further messages in 2020, and you call me 12:05
21 asking about my health, do you remember that call?

22 A. I don't remember that but I do remember making calls to
23 you. You're asking me a specific request and I wish to
24 convey to you as well that I was advised that I would
25 only be proofing the documents that I submitted, I am 12:06
26 not aware, I wasn't prepared that I would need to know
27 this information, sir.

28 122 Q. Okay. So the second thing is do we have all that call
29 that made by garda are recorded, and we can take out

1 all the call records, am I correct?

2 A. If I made contact with you I would make a note on the
3 investigation notes. Again I am unaware if I can speak
4 to you about other matters which was already
5 investigated independently. 12:06

6 123 Q. No, but what I am asking, I am claiming I receive a
7 call on 21st August from you and the call was made by
8 garda station. So if we want to know, if we want to
9 get the phone call record and what has been discussed,
10 we can easily access that record through data 12:06
11 protection, am I correct?

12 A. I don't understand what you're referring to by data
13 protection and phone calls.

14 124 Q. See what my understand is all garda calls are recorded.
15 So in case, whatever has been discussed between you and 12:07
16 me, it will be on the -- it will be on somewhere on the
17 record that what you have told me and what I have told
18 you, because all the phone calls made by garda station
19 are recorded, am I correct?

20 A. No, I wouldn't be able to say that. I am not aware 12:07
21 that all garda calls are recorded, etc.

22 125 Q. Well I know that they are recorded. So whenever you
23 call someone from the garda station they are all
24 recorded. And second thing, you don't remember you
25 made a call to me on 21st August 2020? 12:07

26 A. I can't remember exact dates and I am not aware that
27 the Gardaí record calls or the contents of them. But
28 if that is your information but I cannot confirm that,
29 I am not aware of that.

1 126 Q. Okay. So we have no record that you call me on
2 21st August 2020, am I correct?
3 A. No record that I can give you at this moment verbatim,
4 no.
5 127 Q. Okay. And second thing is when I complain you to the 12:08
6 GSOC, do you remember that?
7 A. Well, sorry, you are after bringing that up here now, I
8 did not introduce that evidence.
9 CHAIRPERSON: So I am going to intervene at this point
10 for your own benefit, Witness B. I think your 12:08
11 question, you should constrain your questioning to the
12 evidence that Garda McPartlan has given here.
13 WITNESS B: The point that I want to raise --
14 CHAIRPERSON: You may be trying to introduce a defence,
15 I understand you'll have every opportunity to do that 12:08
16 when the CEO finishes giving their evidence. But Garda
17 McPartlan is here to give witness to documents that
18 were recorded
19 WITNESS B: So that's why --
20 CHAIRPERSON: He has done that so could you ask your 12:08
21 questions of him that relate to the evidence he has
22 given today, and please refrain from making any
23 reference to any complaints that you have made, you may
24 have made, against this garda or any other garda.
25 WITNESS B: No, I don't think I do. Mr. Garda 12:08
26 McPartlan is a very nice gentlemen, he is very
27 cooperative.
28 CHAIRPERSON: He does appear that way
29 WITNESS B: Yeah. And he is very helpful to me, I

1 appreciate his effort. But the one thing that I want
2 to bring on -- I mean I don't know -- I mean but the
3 thing is when witness A was giving her, you know, her
4 evidence she told that she open her mobile in
5 September/October, and all those things, I don't know 12:09
6 what she was doing, but I receive a call in August and
7 Garda McPartlan was very helpful at that time, he was
8 very caring at that time. He was saying if you have
9 any issue. I mean he was very nice to me, I am not
10 putting any blame onto him, but what I am -- but the 12:09
11 point that I want to raise that Garda McPartlan was
12 informed about some messages in August, not in
13 September/October. And then one of the relative of
14 witness A contacted me, I sent an e-mail to
15 Mr. McPartlan, and then again people start contacting 12:10
16 me and then this complaint has been registered. This
17 is my point of view.

18 CHAIRPERSON: Sure, I understand that point. But once
19 again to repeat, Garda McPartlan can only answer
20 questions in respect of the evidence he has given. He 12:10
21 has given here today so do you have you any questions
22 on his evidence?

23 WITNESS B: No, I already the question that I want to
24 ask. If there's any other question I can ask through
25 the -- 12:10

26 CHAIRPERSON: You can of course.

27 WITNESS B: Yeah thank you. Thank you.

28 CHAIRPERSON: No, you can of course and you have that
29 opportunity. So I will ask if my Committee Colleagues

1 have any questions for -- sorry, Mr. McDowell, do you
2 have anything arises that you wish ask? No ?
3 MR. McDOWELL: No.
4 CHAIRPERSON: Committee Colleagues, do you have any
5 questions for Garda McPartlan? 12:10
6 DR. DAVIN-POWER: No questions. Thanks, Chairman
7 MS. DEVINS: No questions, thanks.
8 CHAIRPERSON: Thank you. Likewise, I have no
9 questions, Garda McPartlan. So all that remains for me
10 to do is to thank you very much for your attendance to 12:10
11 day, for your evidence. And my apologies once again
12 for any inconvenience that we have caused you in the
13 scheduling of this inquiry.
14 A. Thank you very much. I wish you all well. Thank you.
15 CHAIRPERSON: Take care. 12:11
16 WITNESS B: Thank you very much. Thank you.
17
18 THE WITNESS THEN WITHDREW
19
20 MR. MCDOWELL: So, Chair, if you are happy for me to 12:11
21 keep going, my next witness is Dara Kavanagh.
22 CHAIRPERSON: Please do.
23 MR. McDOWELL: Thank you.
24 MR. MURRAY: Good afternoon, Mr. Kavanagh. Can you see
25 and hear us okay? You might just need to activate your 12:11
26 camera and microphone.
27 MR. KAVANAGH: Yeah, I can hear you thanks. Yeah.
28 MR. MURRAY: That's good. So just before you give your
29 evidence you need to be sworn in. So you can either

1 swear on a holy book, if you have one to hand, or you
2 can affirm and attest.

3 MR. MURRAY: Yeah, I don't have one, I will affirm and
4 attest to you.

5
6 DR. DARA KAVANAGH, HAVING AFFIRMED, WAS DIRECTLY
7 EXAMINED BY MR. McDOWELL, AS FOLLOWS:

8
9 CHAIRPERSON: Good afternoon, Mr. Kavanagh. My name is
10 Paul Harkin, I am the Chair of this Inquiry Committee.
11 I am not a medical practitioner. Other members of the
12 Committee include Dr. Mary Davin-Power, who is a
13 medical practitioner, and Ms. Mary Devins, who is also
14 not a medical practitioner. The Committee is
15 supported by Mr. Diarmuid McGuinness, Senior Counsel.

16
17 I want to thank you for your attendance today,
18 apologise for any inconvenience we may have caused you
19 in the scheduling of hearing your evidence.

20
21 I wanted to point out to you that the complainant in
22 this matter is being anonymised as "Witness A" and the
23 registrant in this matter, who you will see on the
24 screen there is anonymised as "Witness B". I would
25 appreciate if you could reference the registrant as
26 "Witness B" throughout your evidence.

27
28 Once again, thank you for your attendance today. I
29 will hand you over to Mr. McDowell, who is the counsel

1 on behalf of the CEO.

2 A. Sure, thank you.

3 128 Q. MR. MCDOWELL: Good afternoon. I think it is
4 Dr. Kavanagh, isn't that right?

5 A. Good afternoon, Mr. McDowell. Thanks, yeah. 12:13

6 129 Q. And I think you are a consultant surgeon, isn't that
7 so?

8 A. That's correct, yeah.

9 130 Q. And you also are the Head of Professional Development
10 for Surgical Affairs in the RCSI, isn't that right? 12:13

11 A. Yeah, for the last 12 months, yeah.

12 131 Q. Yes. And arising from that position, you have a
13 familiarity with the professional competence schemes
14 operated with the RCSI, is that right?

15 A. I do, yes. 12:13

16 132 Q. Yes. And we have heard from a person who held a
17 similar position in the Royal College of Physicians
18 already, and if I could summarise the position which I
19 don't think is a controversial position registered
20 medical practitioners are required to be associated 12:13
21 with or attached to a professional competence scheme,
22 isn't that right?

23 A. That's correct, yes.

24 133 Q. And, as part of that, they are required to do a certain
25 number of credit or CPD hours every year, isn't that 12:14
26 so?

27 A. That's correct.

28 134 Q. And the year runs from May to April, isn't that
29 correct?

1 A. That's correct.

2 135 Q. And in order to evidence compliance with that
3 obligation, registered medical practitioners upload or
4 provide evidence of their compliance to the relevant
5 training body, isn't that right? 12:14

6 A. That's correct.

7 136 Q. So a registered medical practitioner who would be
8 attached to a professional competence scheme operated
9 by the RCSI would provide, I think through uploading,
10 documentation to the RCSI on an annual basis, isn't 12:14
11 that correct?

12 A. That's correct, yes.

13 137 Q. Yes. I am going to ask that tab 62 of the core book be
14 put on the screen which I think has been uploaded to
15 Trialview. So what's on the screen, Dr. Kavanagh, is a 12:14
16 letter dated the 12th October 2023 from Marie O'Boyle.
17 Do you know who Marie O'Boyle is?

18 A. I do, Marie is a colleague of mine, yeah.

19 138 Q. Yes. And I take it you are familiar with this letter
20 from the files held by the RCSI, is that right? 12:15

21 A. I am familiar, yeah.

22 139 Q. Yes. I am just going to read what the letter says. So
23 you see it's addressed to Ms. Champion in the Medical
24 Council and it says "Regarding [Witness B]", and it
25 says: 12:15
26
27 "Dear Siobhán,
28
29 Thank you for your e-mail.

1
2 I wish to confirm the following:

3
4 [Witness B] is currently not enrolled on the RCSI
5 Professional Competence Scheme.
6

7 I can confirm that [Witness B] paid the required PCS
8 enrolment fee for the PCS 1st May 2015-30th April 2016
9 and 1st May 2016-30th April 2017. RCSI in agreement
10 with the Medical Council agreed that PCS records are
11 kept for a period of six years (current PCS year plus
12 previous five years) in order to fulfil obligations
13 under the Medical Practitioners Act of 2007.
14

15 Therefore, we cannot provide a Statement of
16 Participation for [Witness B] for the PCS year of
17 2015-2017".
18

19 And then it says:

20
21 "Please note that correspondence is circulated to all
22 enrolled doctors advising them that due to GDPR,
23 historic records on PCS ePortfolios will be deleted.
24 It is an item in the May PCS newsletter. Individual
25 e-mails are also sent to doctors who have records for
26 the particular year that is being deleted and doctors
27 are advised that they can download their
28 documents/Statement of Participation on or before
29 deletion date. (Copy enclosed)".

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And then if we go to the next page there is a newsletter item. So can you just tell me what the letter is about?

A. This letter would be sent out each year to -- so as you mentioned, after the time has expired, the five years plus the current year, this newsletter will be sent out to anybody who reaches that point. Firstly, in May a newsletter would be sent out of that year to say that your records will be deleted and which we advice people to download any of their supported documenting. 12:16

140 Q. Yes.

A. A personal e-mail then would be sent in June of that year. And then a further personalised e-mail would be sent in July of that year. So we do that process every year. 12:17

141 Q. Yes. So skipping the first three paragraphs which this newsletter item says:

"With this in mind, RCSI PCS will shortly be contacting all registered medical practitioners who have records older than six years on their PCS portfolio - that is all records from PCS year 1st May 2016-30th April 2017 will be deleted on Friday, the 22nd (sic) July 2022".

Do you see that?

A. Yes.

142 Q. And then if I could ask you to go over the page, this is I think an individual e-mail item sent to all

1 practitioners in June, is that right?

2 A. That's correct, yeah.

3 143 Q. And then going to the second last paragraph it says:
4 "With this in mind, we are requesting that you review
5 your personal data stored by RCSI Professional
6 Competence Scheme, and determine if you need to retain
7 your data for PCS year 2016-2017. If so, you need to
8 Download this information from our system and retain
9 elsewhere. This data will be securely deleted on
10 Friday, the 15th July 2022 date. A further reminder
11 will be issued before any of your records are deleted".
12

13 Do you see that?

14 A. That is correct, yeah.

15 144 Q. And then over the page I think there is a further 12:18
16 e-mail sent in July, and again the second paragraph of
17 that draws the attention of recipients to the date of
18 Friday, 15th July 2022 for deletion, isn't that so?

19 A. That's correct.

20 145 Q. And is your evidence that those e-mails would have been 12:18
21 sent to all medical practitioners who were attached to
22 or associated with the Professional Competence Scheme
23 operated by the RCSI?

24 A. That's correct, that would be sent to everybody, yeah.

25 146 Q. Yes. And I take it then that if a person did not 12:19
26 respond by the 15th July 2022 their data for that year
27 '16/'17 would be deleted?

28 A. That's correct.

29 147 Q. Yes. So is the following summary then correct; that

1 the RCSI records show that Witness B was registered
2 with a professional competence scheme operated by RCSI
3 for the years '15/'16 and '16/'17, that's correct, I
4 take it?

5 A. Our financial records would confirm that but that is as 12:19
6 much as the record, because the rest of the record
7 would be deleted.

8 148 Q. Yes. And the records do not disclose whether Witness B
9 completed his required allocation of CPD hours or
10 credits for those two years with the RCSI, isn't that 12:19
11 right?

12 A. That is correct, they are deleted at the time point you
13 have highlighted in the letters.

14 149 Q. Yes and the only way that that data would still exist
15 would be if Witness B had asked the RCSI or sorry had 12:19
16 downloaded the data prior to 15th July 2022?

17 A. That is correct, yes.

18 150 Q. And are you in a position to say, either way, whether
19 he did that?

20 A. We have no record of that, to the best of my knowledge. 12:20

21 151 Q. Does that -- sorry and does that mean that you don't
22 have a record of Witness B specifically doing it or
23 that you don't hold records of who did and did not do
24 it?

25 A. We didn't hold records of who and who sorry -- we 12:20
26 wouldn't hold records of who did and who not do it.

27 152 Q. Yes. Thank you very much Dr. Kavanagh, you might
28 answer any questions that Witness B has for you.

29 A. Sure, thank you.

1 CHAIRPERSON: Thank you and before I call on witness B
2 to ask you questions, just for Dr. Kavanagh's benefit,
3 witness B appears here today without legal counsel. So
4 I am going to give him an opportunity to ask you
5 questions. It may be that, in the future, when he
6 secures legal counsel that he may wish to recall you to
7 further cross-examine but for the moment, witness B I
8 am happy for you to ask any questions of this witness.

12:20

10 THE WITNESS WAS CROSS-EXAMINED BY WITNESS B AS FOLLOWS:

12:20

11
12 153 Q. WITNESS B: Hi, the first question is for Mr.
13 McDowell, if I am not wrong the first time that I have
14 been informed that I need to produce the evidence of my
15 CPD was 6th January 2023, am I correct?

12:21

16 CHAIRPERSON: So again that is a question to Mr.
17 McDowell, not a question to the witness.

18 WITNESS B: No.

19 CHAIRPERSON: We will give an opportunity to answer
20 that question of Mr. McDowell but for the moment --

12:21

21 WITNESS B: Because this question related to the
22 question I will ask Mr. Kavanagh. Because I was told,
23 on 6th January 2023, to bring the CPD record of 2015,
24 '16, '17, '18. Just I am simply asking Mr. Kavanagh,
25 do you think it is practical thing?

12:21

26 CHAIRPERSON: You might rephrase that question because I
27 am not entirely sure because I have interrupted you.

28 154 Q. WITNESS B: Dr. Kavanagh, I have a simple question,
29 that on 6th January 2023, I received an e-mail from

1 Fieldfisher that we would require your CPD to be -- we
2 need evidence of your CPD from 2015 or 2014/15. I mean
3 it was 2023, do you think it was a reasonable question
4 from me to ask CPD for more than five years? And does
5 it make any -- what is the significance of this thing? 12:22
6 MR. MCDOWELL: That is not a question that Dr. Kavanagh
7 can give evidence on.

8 155 Q. WITNESS B: So, I am asking, do you think it is
9 reasonable to ask someone CPD of more than five years
10 or do you think Medical Council can do that? 12:22

11 CHAIRPERSON: So again, with respect, Witness B, I
12 don't know that that is a question that this witness
13 can answer. This witness can talk about records held
14 by RCSI and has clearly given evidence about the period
15 of time with which RCSI retain records. 12:22

16 WITNESS B: Every activity has some, you know -- every
17 activity has some significance we don't go -- we do
18 something for some benefit or for some reason.
19 Medical Council ask me for CPD in 2023, so ideally they
20 should not ask more than five year, every individual 12:23
21 going the same way why Medical Council --

22 CHAIRPERSON: I understand that point and you are
23 perfectly entitled to make that point in this inquiry.
24 But this isn't a point that this witness can actually
25 comment on, the reasonableness or otherwise of the 12:23
26 Medical Council's behaviour. What this witness can
27 talk about is the conduct, the maintenance of records
28 by RCSI and that is all this witness is in a position
29 to comment on.

1 WITNESS B: Yeah that is okay, that is the only
2 question I have for Mr. Kavanagh because he is a doctor
3 and he can answer this question better than any other
4 individual because he understands the significance of
5 CPD rather than the solicitor and barrister, thank you 12:23
6 very much.

7 CHAIRPERSON: Okay, well in the interest, having made
8 that point, rather than risk having to call Dr.
9 Kavanagh back, I will allow you to put that question
10 you have put -- just so that we might minimise any 12:24
11 disruption.
12

13 So, if I understand it correctly, witness B, what you
14 are saying is you have been asked to provide evidence
15 for more years than the RCSI can provide you with? 12:24

16 WITNESS B: Yes, yes.
17

18 THE WITNESS WAS QUESTIONED BY THE COMMITTEE AS FOLLOWS:
19

20 CHAIRPERSON: Yeah. So your question to Mr. Kavanagh 12:24
21 relates to that. Can I ask the question then, Mr.
22 Kavanagh, if a doctor came to you to ask for evidence
23 for CPD records for more than five years, would you be
24 able to provide that information?

25 A. No, no. It is just we have that arrangement with the 12:24
26 Medical Council as outlined by Mr. McDowell. So, we
27 wouldn't be able to provide that.

28 CHAIRPERSON: Does that answer your question, witness
29 B?

1 WITNESS B: That does, thank you very much, thank you.

2 CHAIRPERSON: Thank you. I just didn't want to cause
3 any more unnecessary disruption. As I said to you, Dr.
4 Kavanagh, there is a possibility that all witnesses may
5 need to be recalled to give cross-examination once
6 witness B has counsel.

12:25

7
8 So, with that, I just want to ask if my Committee
9 colleagues if they have any questions for the witness?

10 MS. DEVINS: No thanks, Chair.

12:25

11 DR. DAVIN-POWER: No thank you, Chair.

12 CHAIRPERSON: And likewise I have no questions. So,
13 thank you once again, Dr. Kavanagh, for your attendance
14 today, it is very helpful. And my apologies for any
15 inconvenience we may have caused you.

12:25

16 A. Not at all, thank you, Mr. Harkin, thank you.

17 CHAIRPERSON: Thank you.

18
19 THE WITNESS THEN WITHDREW

20
21 MR. MCDOWELL: So, Chair, the next -- sorry I mean if
22 at any point you want me to stop, I am happy to stop
23 but we have Sam Kendlin Hobbs from the Medical Council
24 ready to give evidence.

12:25

25 CHAIRPERSON: I will just check with my Committee
26 colleagues if they are happy to continue. We do have
27 some constraints this afternoon, so I don't want to
28 intrude unnecessarily on my Committee colleagues.

12:25

29 DR. DAVIN-POWER: Happy to continue, Chair, thank you.

1 CHAIRPERSON: Thank you. And Ms. Devins?
2 MS. DEVINS: No problem at all.
3 CHAIRPERSON: Thank you. So, yes, please do, Mr.
4 McDowell.
5 MR. MCDOWELL: Thank you. 12:26
6 MR. MURRAY: Good afternoon, Mr. Hobbs. Can you see
7 and hear us okay?
8 MR. HOBBS: Yes, yes I can see everybody.
9 MR. MURRAY: And just before you give your evidence,
10 need to be sworn in. So, you can either swear on a 12:26
11 holy book if you happen to have one to hand or you can
12 affirm and attest?
13 MR. HOBBS: I do not have it to hand, so I can affirm
14 and attest.
15 12:26
16 MR. SAM KENDLIN HOBBS, HAVING AFFIRMED, WAS EXAMINED BY
17 MR. MCDOWELL AS FOLLOWS:
18
19 CHAIRPERSON: Good afternoon, Mr. Kendlin Hobbs. My
20 name is Paul Harkin, I am the Chair of this Inquiry 12:26
21 Committee. I am not a medical practitioner. The
22 Committee also comprises Dr. Mary Davin-Power who is a
23 medical practitioner and Ms. Mary Devins, who is also
24 not a medical practitioner. With the Committee is
25 Mr. Diarmaid McGuinness senior counsel, who is legal 12:27
26 assessor to the Committee.
27
28 I want to thank you for your attendance today.
29 Apologise for any inconvenience that it may have caused

1 you in the scheduling to hear your evidence. I know
2 you have been primed on a number of occasions, that is
3 circumstances beyond our control.
4 Just to also knowledge the registrant, in this matter,
5 is being anonymised as witness B, so I would appreciate 12:27
6 if you could you refer to them as witness B when you
7 are giving evidence.

8 A. Yes.

9 CHAIRPERSON: Once again, thank you again for your time
10 and I will hand you over to Mr. McDowell, the counsel 12:27
11 for the CEO.

12 A. Thank you very much.

13 156 Q. MR. MCDOWELL: Good afternoon, Mr. Kendlin Hobbs. So,
14 could you tell the Committee what position you hold?

15 A. So my position is as the professional competence 12:27
16 manager for the Medical Council.

17 157 Q. Yes and could you tell the Committee, in very broad
18 terms, what the obligations on a registered medical
19 practitioner are with regards to CPD?

20 A. So, in very broad terms, all doctors registered in 12:28
21 Ireland are required to maintain their professional
22 competence provided they are practising in the State
23 for more than 30 days a year. There are two main
24 avenues by which this professional competence is
25 maintained, either a doctor will enrol of a 12:28
26 professional competence scheme which is operated by one
27 of the postgraduate training bodies such as RCPI, ICGP.
28 Or if they are on higher or basic specialist training,
29 those training programmes are deemed to maintain their

1 professional competence.

2
3 The other aspect, as I'd said, if you're practising
4 outside of the State if a doctor wishes to maintain
5 their registration in Ireland but are practising for 12:28
6 less than 30 days a year, inside Ireland, they can
7 maintain their professional competence in the State
8 that they are spending the majority of their time. In
9 order to do so they provide the Medical Council with an
10 Annual Declaration of Overseas Practice and the Medical 12:29
11 Council may request evidence of their maintenance of
12 professional competence in whichever jurisdiction they
13 are practising.

14 158 Q. And I think it is the case that the, for the purpose of
15 CPD, a year runs from the 1st May to 30th April, isn't 12:29
16 that right?

17 A. Yes, somewhat confusingly it doesn't entirely align
18 with the registration year. It is 1st May to 30th
19 April and in effect each year the requirements in each
20 year reset at zero once a new year begins. 12:29

21 159 Q. Yes. And I think it is the case that the requirements
22 were amended during the period of Covid 19 and lockdown
23 and so on but am I correct in saying that that came
24 into force, with effect from 1st May 2020, is that
25 right? 12:30

26 A. Yes. So for the year 2020 into 2021, the requirements
27 were 25 credits and no audit. For the following year
28 21/22 it was 25 credits and one audit. And since then
29 it has been 40 CPD credits and one audit with an audit

1 approximately 10 to 12 hours is the expectation.

2 160 Q. Yes. But for the year that ended 30th April 2020, even
3 though that captures at the very beginning of Covid,
4 the requirements were the same, isn't that right?

5 A. They were -- I believe that they were same as 12:30
6 previously which was 50 CPD hours and one audit as
7 Covid only came in at the very end of that year.

8 161 Q. Yes. I wonder could TrialView bring up the appendix to
9 a witness statement that you provided. And just I am
10 going to go through this very briefly with you 12:31
11 Mr. Kendlin Hobbs. If I could bring you to page 24 of
12 that book?

13 A. Yes.

14 162 Q. There is an exchange of e-mails between yourself and
15 Ms. O'Boyle of RCSI, you see that? 12:31

16 A. Yes, I do.

17 163 Q. And you may know that we have already heard from Dara
18 Kavanagh in relation to witness B's registration with
19 the RCSI?

20 A. Yes. 12:31

21 164 Q. You recall corresponding with the RCSI in relation to
22 Witness B?

23 A. Yes, I do. The first e-mail was sent by my colleague
24 Siobhán Champion as that was the actual week that I
25 begun working with the Medical Council and then I 12:31
26 subsequently followed up with Ms. O'Boyle to request
27 statements of participation.

28 165 Q. Yes. Then if I could bring you to page 33 and 34 of
29 that document. This is an exchange on these pages and

1 pages that follow, there is an exchange of e-mails
2 between yourself and Ms. Donegan of the RCPI, do you
3 recall that?

4 A. Yes, I do. Again that correspondence was instigated by
5 my colleague Siobhán Champion and I had followed up 12:32
6 subsequently.

7 166 Q. Yes. As you may be aware, Mr. Kendlin Hobbs, this
8 inquiry is focused in part on witness B's compliance
9 with his CPD obligations for the five years between 1st
10 May 2015 and 30th April 2020? 12:32

11 A. Yes.

12 167 Q. Has the Medical Council ever received evidence from a
13 training body or from witness B that it -- that he has
14 -- that he complied with his statutory obligations in
15 relation to CPD for those periods? 12:32

16 A. So we had requested information regarding statements of
17 participation from RCPI and RCSI for the dates -- for
18 the dates that you have referred to. RCSI had
19 indicated that the doctor in question was enrolled for
20 those years, however the records had been deleted as 12:33
21 part of their records, retention policy.

22

23 We had also followed up with RCPI and they had
24 indicated that the doctor was enrolled from the period
25 2015 to 2020, save for the year 2016/2017, I believe. 12:33

26 168 Q. Yes. Thank you very much, Mr. Kendlin Hobbs. I
27 wonder if you could answer any questions that witness B
28 has for you.

29 A. Yes, go ahead.

1
2
3
4 THE WITNESS WAS CROSS-EXAMINED BY WITNESS B AS FOLLOWS:
5

12:33

6 169 Q. WITNESS B: Hi actually thanks for coming.

7 A. Thank you.

8 170 Q. Two or three questions. No. 1, my understanding is the
9 CPD thing came in 2011 and up to 2011 to 2018, when we
10 registered with Irish Medical Council the declaration
11 came. In that declaration it has been asked that "are
12 you registered with any professional competence
13 scheme?"
14

12:34

15 And that declaration change in 2020 and then it became
16 "are you completing your obligation to complete 50 CPD
17 point?" If I am not wrong, this is the right --
18 declaration that I am bringing on record?
19

12:34

20 A. I am not certain as to the exact wording change, that
21 would have been before my time, doctors are required to
22 state that they have maintained their professional
23 competence and then there are subsequent follow up
24 questions as to whether this is done by scheme or
training programme.

12:34

25 171 Q. So because the reason is that CPD came in in 2011 and
26 after 2019, I mean different colleges have different
27 way of completing the CPD. Like you mentioned one
28 audit.

12:34

29 A. Yes.

1 172 Q. RCPI, you know the record shows there was no mandatory
2 requirement up to 2016. You can either do the personal
3 learning, you can either do the teaching and it goes up
4 to 2019. So this although the Medical Council claim
5 that you should have to do an audit but RCPI was not 12:35
6 requesting to do the audit by the member in general
7 registration. So, there has been this discrepancy
8 between the Medical Council and the colleges. So, are
9 you aware of the discrepancy?

10 A. I am not aware of the exact issues that you refer to, 12:35
11 that was before my time working for the Medical
12 Council. I know that it is the case, both for
13 previous dates since and since I have joined, that the
14 Medical Council does not manage the individual CPD
15 records of individual doctors. This is referred to the 12:36
16 postgraduate training bodies who manage the various
17 professional competence schemes.

18 173 Q. Okay and one more question that I wrote to all the
19 hospital where I work in, "kindly give me the record of
20 my internal CPD". None have any record. As my 12:36
21 understanding is, Medical Council not only have
22 obligation to ask for CPD but they have obligation to
23 make sure the hospital, the HSE and the colleges are
24 providing this facility to the registrant. Do you do
25 anything to make sure that that responsibility being 12:36
26 fulfilled appropriately, so that you can answer me a
27 question whether you fulfil the CPD or not?

28 A. We do inform doctors that they are required to maintain
29 their CPD records. This communication is also repeated

1 by the training bodies that manage the professional
2 competence schemes. The Medical Council also
3 communicate to hospitals, training bodies and our sites
4 that registrants should have the ability to access any
5 CPD records as well. But the Medical Council does not 12:37
6 manage any CPD records or any attendance at various
7 learnings or CPD activities.

8 174 Q. No, but that is 2011 the Medical Council has a
9 statutory obligation, the HSE hospital, you know, they
10 create CPD activities they manage and maintain the 12:37
11 record. Not the hospital any record before 2019, I
12 mean you fulfilled your obligation for the hospital but
13 from my side you are asking to bring the CPD when
14 you're -- I mean the hospital that are, you know, that
15 are being regulated by the IMC, they are not providing 12:37
16 me the CPD record but you are asking me to provide the
17 CPD record. Are you not yourself responsible for this?

18 A. I can't really comment on that, I have not had
19 engagement with individual hospitals. Again we do
20 encourage doctors to maintain their own records as 12:38
21 various other bodies will have data retention policies.
22 We do communicate to the hospitals and colleges and
23 training bodies that these records should be made
24 available to doctors upon the request.

25 175 Q. But none of the hospitals provide me the record before 12:38
26 2019, so who is responsibility is this?

27 A. I can't speak to that, I'm afraid.

28 176 Q. Is this not your obligation to make sure the hospital
29 keep the record of the CPD activity? Are you not

1 negligent in your duty?

2 A. I apologise, I can't -- I can't speak to that.

3 177 Q. That's okay, that's okay, that's okay, thank you very
4 much. I think I have completed my questions.

5 CHAIRPERSON: Thank you, witness B. Mr. McDowell, any 12:38
6 questions, follow up questions for this witness?

7 MR. MCDOWELL: No, thank you.

8 CHAIRPERSON: So I will ask my Committee colleagues if
9 they have any questions for the witness?

10 DR. DAVIN-POWER: I have just one question, Chair, 12:39
11 please.

12 CHAIRPERSON: Please.

13

14 THE WITNESS WAS QUESTIONED BY THE COMMITTEE AS FOLLOWS:

15

16 DR. DAVIN-POWER: Thank you. Mr. Kendlin Hobbs, thank
17 you for your input so far. I would just like to ask
18 you one question, is a doctor who is registered on the
19 Medical Council, as an individual, obliged to undertake
20 and then record any or his minimum CPD requirements? 12:39
21 Is that an obligation in order to maintain
22 registration?

23 A. Yes, as part of your registration you are required to
24 maintain your professional competence. And the rules
25 also define the exact number of credits each year as to 12:39
26 what constitutes maintenance of professional
27 competence.

28 WITNESS B: Can I clarify one point?

29 CHAIRPERSON: Please.

1 WITNESS B: This obligation, the obligation before 2019
2 was you just register with professional competence,
3 that publication change in 2019. After 2019 you have
4 to maintain CPD otherwise you may lose your
5 registration. So that application has changed in 2019. 12:40
6 It is as per my -- because when I register every year,
7 you know the -- you have to tick "yes or no", "yes or
8 no". So I read the obligation, so before 2019 there
9 was no obligation to complete the CPD activity. You
10 only have to register with CPD professional competence 12:40
11 scheme. In 2019, when I was registering in 2020, that
12 line has changed.

13 CHAIRPERSON: Okay, I understand the point you are
14 making, witness B. The only thing to say here, all you
15 are doing is inviting me to ask you more questions 12:40
16 which this is not the purpose at this stage. The
17 purpose is to ask this witness questions. So, but I
18 appreciate your input there.

19
20 I don't have any questions for you, Mr. Hobbs. I 12:40
21 reapply appreciate your time, your evidence has been
22 very helpful and clear and I want to thank you.

23 A. Thank you.

24 CHAIRPERSON: Mr. McDowell, before I let the witness go
25 is there any further matter that you wish to attend to? 12:41

26 MR. MCDOWELL: Not with this witness, no.

27 CHAIRPERSON: Thank you. Once again, my apologies for
28 the inconvenience we have caused you and thank you
29 again for your participation.

1 A. Thank you very much everybody, no problem at all, take
2 care.

3
4 THE WITNESS THEN WITHDREW.

5
6 MR. MCDOWELL: So, Chair, just before I move on to the
7 next witness just to be of assistance to the committee
8 in light of Dr. Davin-Power's question and Witness B's
9 response. The allegation at paragraph 8 of the Notice
10 of Inquiry relates to Witness B's compliance or
11 non-compliance with the rules set down in SI 171/2011
12 which came into force, I think, on 18th January of
13 2011.

14
15 So, there may have been in change in relation to
16 registration forms at the Medical Council in 2019 or
17 2020 but the case is concerned with compliance with an
18 SI that was commenced in 2011. Just to be of some
19 assistance to the Committee.

20 CHAIRPERSON: Thank you.

21 MR. MCDOWELL: So, Chair, the last witness that I have
22 available today, particularly in light of the
23 Committee's difficulties is Garda Noonan, so I propose
24 to call her.

25
26 And, sorry, if the Committee wants to break for lunch
27 obviously I am happy to do that but this is the last
28 witness and I won't have any more evidence to call
29 after this, so I am happy to keep going to get that

1 finished.

2 CHAIRPERSON: Again I will just check with my Committee

3 colleagues if they are happy to continue. We have

4 made good progress so far, I think.

5 Dr. DAVIN-POWER: Happy to continue, Chair, thank you. 12:42

6 MS. DEVINS: I am happy to continue, Chairman.

7 CHAIRPERSON: Then please do.

8 MR. MCDOWELL: Thank you. So Garda Noonan.

9 MR. MURRAY: Good afternoon, Garda Noonan. Can I

10 just confirm that you can see and hear us okay? You 12:42

11 might just need to activate your camera and microphone,

12 please?

13 GARDA NOONAN: Yeah.

14 MR. MURRAY: You can hear me fine?

15 GARDA NOONAN: Yeah, perfect. 12:43

16 MR. MURRAY: That is great, thank you very much. And

17 just before you give evidence you need to be sworn in.

18 So you can either swear on a holy book if you have one

19 to hand or you can affirm and attest.

20 GARDA NOONAN: I don't have a holy book to hand, so I 12:43

21 will just affirm.

22

23 GARDA SAOIRSE NOONAN, HAVING AFFIRMED, WAS EXAMINED BY

24 MR. MCDOWELL AS FOLLOWS:

25 12:43

26 CHAIRPERSON: Good afternoon, Garda Noonan, you are very

27 welcome. Let me introduce myself and the Committee

28 here today. My name is Paul Harkin and I am chairing

29 this Inquiry Committee, I am not a medical

1 practitioner. Also in the Committee you will see Dr.
2 Mary Davin-Power, who is a medical practitioner and
3 Ms. Mary Devins who, like myself, is not a medical
4 practitioner. With the Committee is Mr. Diarmaid
5 McGuinness, senior counsel, who is the legal assessor
6 to the Committee.

12:44

7
8 Two points I want to bring to your attention. One, the
9 registrant in this case is being anonymised as Witness
10 B and I would appreciate if you could refer to Witness
11 B in your evidence. And the complainant in this matter
12 is being referenced as Witness A and again I appreciate
13 if you could reference them as Witness A and Witness B
14 respectively.

12:44

15
16 I think that is all I wanted to say at this point.
17 Just to say also Witness B is not represented here
18 today and we are proceeding with caution, with
19 evidence. There is a possibility that when Witness B
20 secures legal counsel, it may be necessary to recall
21 you for cross-examination purposes but for the moment
22 we would like to make progress with your evidence and I
23 am going to hand you over to Mr. McDowell who is the
24 counsel for the CEO. I hope that makes sense?

12:44

25 A. Thank you.

12:45

26 CHAIRPERSON: Thank you.

27 178 Q. MR. MCDOWELL: Good afternoon, Garda Noonan. I think
28 that you were, in 2019, attached to Tullamore Garda
29 Station, is that right?

1 A. That is correct, yeah.

2 179 Q. Do you recall during that period a complaint being made
3 to you by witness B?

4 A. Ehm -- yes, I recall obtaining a statement from witness
5 B on that date.

12:45

6 180 Q. Yes. I am going to ask that the booklet of garda
7 statements be put up on TrialView, please. I wonder
8 could you please go to page 24 of that book.

9

10 So you will see Garda Noonan this is stated to be a
11 statement of witness B taken on 21st May 2019 by
12 Saoirse Noonan of Tullamore Garda Station. So, are you
13 happy to confirm that this is a statement you took from
14 witness B?

12:45

15 A. Yes, that is correct, yes.

12:47

16 181 Q. And I just read it into the record. It says:

17

18 "My name is [Witness B]. I am a doctor currently
19 self-employed. I have my own company Affina Ltd. I take
20 medical practice contracts. In January 2016 I was
21 working in Castlebar Hospital. There was an intern
22 working with me. Her name is [Witness A]. When
23 [Witness A] arrived she was constantly late for work
24 and not working to a proper standard. I made a
25 complaint about this to the consultant in the hospital.
26 I was her superior in work. She did not take this
27 complaint well and took it personally. After this she
28 started making intimidating facial gestures at me and I
29 felt she was ganging up against me and making me feel

1 isolated. I felt she was undermining my professional
2 job and not communicating with me, I felt completely
3 isolated and this had a strong emotional and physical
4 effect on me. I had trouble concentrate because of
5 this. [Witness A] start sending me after work text
6 messages regarding behaviour and body language. I felt
7 she was purposively standing near me and gazing at me,
8 This was distracting me and affecting mental health.
9 Both our contracts were up in July. We both left
10 Castlebar Hospital. I felt intimidated and harassed by
11 [Witness A]. This all occurred in 2016 between January
12 and July in Castlebar Hospital. In 2017, I missed
13 [Witness A] and contacted her via text message. I was
14 very depressed at the time and still on medication for
15 my depression. I asked her to meet up. She didn't
16 reply. On 20th May 2019, I was feeling very depressed
17 and contacted [Witness A] via text message. I invited
18 her to a function when she didn't reply I send more
19 messages. I was drunk yesterday and feeling depressed
20 that's why I sent the messages. I feel okay now over
21 the weekend I was drunk. On the last day in Castlebar,
22 I felt [Witness A] was following me and it was
23 witnessed in work as well. She was following me all
24 day. I left work early to avoid her. If you don't
25 agree with [Witness A] she's toxic and becomes very
26 angry. This statement has been read over by me and is
27 correct".

28
29 So you are satisfied that is an accurate reflection of

1 the statement made?

2 A. That is correct, yeah.

3 182 Q. Yes. I know it is sometime ago now but do you recall
4 when witness B made this statement to you, did he refer
5 to the fact that the previous day he had given an 12:47
6 interview to Gardaí in Galway?

7 A. I don't recall that, no. No, like you said it was
8 quite some time ago, I just don't recall.

9 183 Q. Yes. And did he give you -- do you recall did he give
10 you contact details for witness A? 12:48

11 A. I don't recall that either but I have no record of
12 passing on any contact details for witness A.

13 184 Q. But I will come to it in a moment but later on you took
14 a witness statement from witness A, isn't that right?
15 Or you conducted an interview with her, excuse me? 12:48

16 A. No, no, I never took any witness statement from --

17 185 Q. Excuse me, it wasn't by you, it was by a different
18 garda, sorry, I leave that.

19

20 So then I wonder could TrialView bring up the 12:48
21 Robinson's Data Protection request. It is 171-4591,
22 yes this document. Garda Noonan, to be of some
23 assistance it appears that witness B made a request of
24 An Garda Síochána under the Data Protection Act for
25 data held in relation to him. And what was disclosed 12:49
26 to him, well sorry I will just show you what was
27 disclosed to him, so it is the second page of this
28 file.

29

1 So are you familiar with this document? Are you able
2 to tell the Committee what this document is?
3 A. Yes, that is the statement that I would have taken from
4 Witness B on the date.
5 186 Q. Yes. 12:49
6 A. The written statement.
7 187 Q. Yes. And I just want to draw something to your
8 attention for your comment if that is okay. Do you see
9 the top right hand corner there it says page number 1?
10 A. Yeah. 12:49
11 188 Q. If TrialView go to the next page, you will see that it
12 appears to say on the top right hand corner it says
13 page number 4, do you see that?
14 A. Yeah.
15 189 Q. So, I don't know, I mean -- I suppose if I could ask 12:50
16 the question this way, were there pages missing from
17 the statement or are those two pages the entirety of
18 the statement you took?
19 A. That's the entirety of the statement it must have just
20 been my error that I put in a wrong number there. 12:50
21 190 Q. Yes. Yes, very good.
22 A. Yeah.
23 191 Q. Thank you very much, Garda Noonan, I don't have any
24 other questions for you.
25 A. Okay, thank you. 12:50
26 192 Q. Witness B may have some questions for you.

27

28

29 THE WITNESS WAS CROSS-EXAMINED BY WITNESS B AS FOLLOWS:

1
2 193 Q. WITNESS B: Yeah, as far as I remember the statement
3 was four page. Can you, I mean when you read the
4 handwritten statement, you know not the handwritten the
5 one you know with the --- why you did not sign the 12:50
6 statement when -- I mean when we see the garda record,
7 you did not sign the declaration and sign, you know,
8 that this is correct -- I mean the, you know, when the
9 Medical Council record, your statement is not there "I
10 took this statement" and this and that. You never 12:51
11 signed that statement, why you didn't sign that?
12 A. Sorry, I don't understand --
13 MR. MCDOWELL: I think the witness, I don't follow
14 that question, so I think it should be rephrased.
15 WITNESS B: You see the thing is when I received the 12:51
16 garda document from the Medical Council, I could see
17 Garda McPartlan that he gave that statement he say "I
18 met witness A on that day and that day". There is no
19 statement from you.
20 A. Okay, I still don't understand the question I was -- 12:51
21 194 Q. Okay, the thing is I gave you statement on 20th May.
22 Can you go up a little bit. Yes, go a little bit up,
23 you see after work that message regarding behaviour and
24 body language. Does it make any sense to you?
25 12:52
26 "Start texting me after work, text message regarding
27 behaviour and body language".
28
29 Does it make any sense?

1 A. Ehm -- I don't really know how to answer that because
2 it is not my statement of -- so I can't recall.

3 195 Q. You remember I have told you about messages regarding,
4 you were show up and you ask me, "are you sure you said
5 that?" And nothing is there, you know. I told you a 12:52
6 lot of information about call I receive from her and
7 her friends, nothing is there, you know, they are all
8 missing?

9 A. Okay. That is the only record that I have that would
10 have been forwarded on. 12:52

11 196 Q. The thing is that two page are missing and when the two
12 page are missing, all my accusation they are out of the
13 record and I receive many of the calls and I gave the
14 detail and I wanted them to be, pursued so I can prove
15 that witness A was contacted me, her friend and family 12:53
16 were contact me. The garda in Galway they said "we
17 never receive the statement so why should we do that?"

18 A. When a statement was made to me on that date, I
19 forwarded all of the statement on to Galway Garda
20 Station for investigation, that was my only -- 12:53

21 197 Q. Same day, yes?

22 A. I don't recall the date that it was sent on but it was
23 -- the statement was forwarded on to Galway Gardaí for
24 investigation.

25 198 Q. would you have any record of that, do you keep any 12:53
26 record when you do these activities or no?

27 A. There would be a record of it, yes, I don't have it to
28 hand.

29 199 Q. But you would have a record and we can recall that

1 record, am I correct?

2 A. I am sure you can, there would be a record of when it
3 was forwarded on and when it was received.

4 200 Q. Yeah, okay. So, it will be a fax or e-mail?

5 A. I am not sure. 12:53

6 201 Q. You don't remember would be fax or e-mail, yes?

7 A. Sorry?

8 202 Q. So you don't remember did you fax or e-mail, yes?

9 A. There would have been e-mail and a hardcopy would have
10 been forwarded as well. 12:54

11 203 Q. okay, thank you very much, thank you.

12 A. okay.

13 MR. MCDOWELL: So, Garda Noonan, I have no further
14 questions for you but the Committee members may have
15 questions for you. 12:54

16 CHAIRPERSON: Committee colleagues, have you any
17 questions for this witness?

18 DR. DAVIN-POWER: No questions, thank you, Chair.

19 CHAIRPERSON: Thank you. Ms. Devins, do you have any
20 questions for the witness? 12:54

21

22 I know Ms. Devins is having trouble with her internet
23 connection. Ms. Devins, if you can hear me?

24 MS. DEVINS: Actually I do, Chair. Sorry, my signal is
25 not good at the time moment. Good afternoon, Guard, I 12:54
26 am sorry I have no picture I am trying to protect my
27 signal.

28

29 THE WITNESS WAS QUESTIONED BY THE COMMITTEE AS FOLLOWS:

1
2 MS. DEVINS: Just does the typed copy of the manuscript
3 reflect exactly what is being put up on our screen, do
4 you know that, Guard?
5 A. The typed copy of the statement, is it? 12:55
6 MS. DEVINS: Yes, of Witness B's statement to you.
7 A. That would be the first one.
8 MS. DEVINS: That statement that we have just seen in
9 manuscript which you took from Witness B, I am
10 presuming there is a typed copy? 12:55
11 A. Yeah, I didn't type that statement. I only forwarded
12 on the handwritten copy. But the statement -
13 MS. DEVINS: So you don't know what --
14 A. Sorry go on.
15 MS. DEVINS: No, no, so you don't know what the typed 12:55
16 copy represents?
17 A. I have seen the typed copy but I didn't type the copy.
18 I took the handwritten copy and forwarded it on.
19 MS. DEVINS: Very good, thank you. Thanks, Guard.
20 CHAIRPERSON: Thank you for that, Ms. Devins. 12:56
21
22 Garda Noonan, I think you have answered this clearly
23 but just so I am not confused, your evidence is that
24 you recall the statement that you took was a two-page
25 document, is that your evidence? 12:56
26 A. From what I can recall, again this was in 2019 but all
27 I can recall is taking a handwritten statement and I
28 forwarded that on to the Gardaí in Galway.
29 CHAIRPERSON: Thank you.

1 A. Again it was back in 2019, so I don't recall exactly
2 how many pages or anything like that. I just recall I
3 did take a statement from witness B and I did forward
4 it on to Galway Gardaí for investigation after that. I
5 am sorry now --

12:56

6 CHAIRPERSON: That's okay, that is quite all right,
7 thank you very much, you have been very helpful. Mr.
8 McDowell, any matter arise that you wish to?

9 MR. MCDOWELL: No, thank you, Chair.

10 CHAIRPERSON: Okay, perfect.

12:57

11
12 So, Garda Noonan, thank you very much again for your
13 attendance and your evidence. As I mentioned at the
14 outset there is every possibility that witness B, when
15 he secures legal counsel may need to recall you for
16 cross-examination. So, my apologies again for any
17 inconvenience we have caused you and thank you for your
18 time today.

12:57

19 A. Thank you.

20 CHAIRPERSON: Take care.

12:57

21 A. Thanks.

22

23 THE WITNESS THEN WITHDREW

24 MR. MCDOWELL: So, Chair, I don't have any more
25 witnesses left to tender today.

12:57

26

27 So the position now with regards to the CEO case is
28 that I need to call Ms. Kelly, who is from Mayo
29 University Hospital, who was available to give evidence

1 yesterday but isn't today. And I need to call, for
2 cross-examination by Witness B, I need to call Dr. Lee
3 Dr. Russell, Dr. Cullen and then I have an expert in
4 Dr. Flynn and that will be my case.

5 CHAIRPERSON: Thank you.

12:58

6 MR. MCDOWELL: I think that -- I mean obviously I can't
7 predict the length of witness B's cross-examinations
8 but I suspect that all of that will take, at the outer
9 limit a day and a half.

10 CHAIRPERSON: That is very helpful. And just to say
11 again, witness B, I understand that we have had to
12 proceed without you having legal representation here.

12:58

13 I would assure you that the transcript of this
14 proceedings will be made available to you and to your
15 legal counsel when you secure it. So, I would have
16 every confidence that any legal firm that you engage
17 would be more than able to familiarise themselves with
18 the contents of the transcript and the evidence today.
19 But we will be able to provide an opportunity, should
20 you so wish, to have witnesses recalled to
21 cross-examine them. Does that make sense?

12:58

12:58

22 WITNESS B: Yes, I understand. So I have a meeting
23 tomorrow, it will take a few days, I mean with one of
24 the firms and probably they may come on record. It
25 will take them, you know, for -- it will take them a
26 while before they will become, you know. It will take
27 time to go through all these documents.

12:59

28 CHAIRPERSON: I understand that. I don't know if I
29 mentioned this morning when we opened this, one of the

1 reasons why I wanted to make progress was for reasons
2 again that we don't need to go into, the Committee is
3 not available to sit tomorrow.

4 WITNESS B: That is fine.

5 CHAIRPERSON: That necessary adjournment will give you 12:59
6 time to secure legal counsel, I hope. This Committee
7 is anxious that we proceed as expeditiously as possible
8 but also we want to make sure that we are fair to you.

9
10 Mr. McDowell had made a suggestion that we convene in 12:59
11 person. We are happy to agree to convene in person on
12 a block of four days, to bring this matter
13 expeditiously to a close but obviously that depends on
14 the Committee's availability, the witnesses
15 availability from Mr. McDowell and obviously your own 12:59
16 availability and your counsel's availability.

17
18 So, if I could encourage you in the same spirit as I
19 said yesterday, there is nothing worse than something
20 hanging over you and sometimes it's best if you can 13:00
21 face what is hanging over you and have it -- it is
22 never as bad as what you might think it could be.

23
24 So, it is important for us that we bring this matter to
25 a conclusion and I think it is in your best interest 13:00
26 that it comes to a conclusion as well. So, if you
27 could work with your counsel, when you get them, to be
28 available, we will do everything in our power to
29 convene as early as possible.

1
2 But I think that is all we can do at this point.
3 Committee colleagues, any matter arise that you wish to
4 draw to our attention?

5 WITNESS B: Yeah, I mean, the only thing is that -- the 13:00
6 only thing is that you know for in person or online
7 that depend upon my --

8 CHAIRPERSON: I understand and obviously just again to
9 be clear, if you decide that your preference is for
10 convenience that we continue remotely, that's an 13:00
11 application we will consider. Right now, Mr. McDowell
12 to be helpful has volunteered we do this in person. We
13 are happy to hear applications on either way from
14 either side is what I say. Because our only interest
15 is that we get through this Inquiry as efficiently as 13:01
16 we can in everyone's best interests.

17 WITNESS B: Thank you.

18 CHAIRPERSON: Thank you. Thank you again for your
19 attendance today all parties. We are going to now
20 adjourn this Inquiry. We think we made some good 13:01
21 progress this morning but we are mindful of the fact
22 that witness B needs to have, be given the opportunity
23 to cross-examine witnesses and has various concerns
24 that he wasn't able to articulate because he is not
25 represented but has done a good job of articulating his 13:01
26 concerns about the evidence. So thank you again for
27 that, all.

28 WITNESS B: Thank you.

29 CHAIRPERSON: Take care now

1 WITNESS B: Bye, bye.
2 MR. MCDOWELL: Thank you, Chair.
3 CHAIRPERSON: Thank you to all the Council staff as
4 well.

13:02

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6 THE HEARING THEN ADJOURNED TO A DATE TO BE FIXED

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	171-4591 [2] - 59:17, 96:21 171/2011 [1] - 91:11 17th [1] - 53:24 183 [1] - 57:16 18th [3] - 53:24, 54:1, 91:12 19 [3] - 3:10, 51:1, 83:22 19th [1] - 54:12 1st [9] - 27:20, 53:11, 73:8, 73:9, 74:23, 83:15, 83:18, 83:24, 85:9	38:17, 38:19, 38:21, 41:14, 43:16, 43:29, 45:1, 45:23, 46:5, 50:22, 51:9, 52:9, 52:27, 53:28, 54:13, 86:26, 87:4, 88:11, 88:26, 90:1, 90:3, 90:5, 90:8, 90:11, 91:16, 93:28, 94:11, 95:16, 101:26, 102:1 2020 [30] - 11:5, 27:21, 38:21, 44:4, 44:19, 53:9, 53:11, 53:22, 53:24, 54:1, 54:4, 54:6, 54:8, 58:1, 58:14, 64:20, 65:7, 65:11, 65:19, 65:20, 66:25, 67:2, 83:24, 83:26, 84:2, 85:10, 85:25, 86:15, 90:11, 91:17 2020" [2] - 44:5, 44:20 2021 [4] - 41:14, 51:3, 58:8, 83:26 2022 [4] - 75:10, 75:18, 75:26, 76:16 2022" [1] - 74:24 2023 [8] - 27:7, 30:6, 72:16, 77:15, 77:23, 77:29, 78:3, 78:19 2024 [1] - 6:1 20th [12] - 43:16, 45:1, 45:23, 46:5, 46:7, 50:22, 51:9, 52:9, 54:12, 59:25, 95:16, 98:21 21/22 [1] - 83:28 21st [9] - 53:22, 54:1, 64:20, 65:11, 65:19, 66:7, 66:25, 67:2, 94:11 22 [1] - 3:14 22nd [2] - 58:8, 74:24 23rd [1] - 58:1 24 [2] - 84:11, 94:8 25 [5] - 28:25,	29:6, 29:7, 83:27, 83:28 250 [5] - 11:4, 11:5, 35:2, 35:8, 35:28 269 [1] - 58:5 2nd [4] - 44:4, 44:5, 44:19, 44:20	77:29	abusive [2] - 16:18, 17:2 accelerate [1] - 9:18 accept [3] - 10:28, 17:20, 60:22 access [7] - 24:18, 31:8, 56:27, 59:16, 64:8, 66:10, 88:4 accommodatin g [1] - 17:4 account [3] - 45:23, 45:24, 62:27 accurate [3] - 50:21, 54:16, 95:29 accusation [1] - 99:12 acquire [1] - 57:9 Act [4] - 6:6, 6:9, 73:13, 96:24 act [1] - 6:11 acting [1] - 41:11 actions [2] - 16:12 activate [3] - 22:5, 69:25, 92:11 activation [2] - 57:23, 58:12 active [1] - 31:18 activities [7] - 25:25, 26:3, 26:6, 26:7, 88:7, 88:10, 99:26 activity [5] - 29:21, 78:16, 78:17, 88:29, 90:9 actual [4] - 6:18, 25:4, 33:27, 84:24 added [2] - 26:6 address [8] - 17:24, 45:19, 45:20, 45:21, 45:25, 46:3, 57:22, 58:12 addressed [1] - 72:23 adjourn [5] - 7:21, 9:4, 10:16, 16:2, 105:20 adjourned [1] - 21:16		
'15/'16 [1] - 76:3 '16 [4] - 29:1, 30:14, 31:20, 77:24 '16/'17 [2] - 75:27, 76:3 '17 [2] - 30:14, 77:24 '18 [3] - 29:1, 31:20, 77:24 '19 [2] - 29:2, 31:20 '20 [1] - 31:20 'are [2] - 10:11, 38:18 'did [1] - 38:20 'requirement [1] - 29:5 'this [1] - 14:6 'yes' [1] - 29:6	2		3	7			
0	2 [4] - 7:18, 43:12, 43:14, 64:11 20 [4] - 29:2, 29:9, 36:8 2007 [3] - 6:6, 6:10, 73:13 2011 [7] - 32:29, 86:9, 86:25, 88:8, 91:13, 91:18 2013 [1] - 36:5 2014 [3] - 28:16, 28:18, 36:8 2014/15 [1] - 78:2 2015 [5] - 27:20, 77:23, 78:2, 85:10, 85:25 2015-2017" [1] - 73:17 2015-30th [1] - 73:8 2016 [8] - 29:24, 48:9, 48:19, 58:13, 73:8, 87:2, 94:20, 95:11 2016-2017 [3] - 30:29, 31:7, 75:7 2016-30th [2] - 73:9, 74:23 2016/2017 [1] - 85:25 2017 [4] - 29:24, 73:9, 74:23, 95:12 2017" [1] - 57:23 2018 [2] - 45:22, 86:9 2019 [33] - 16:25, 34:21,		3 [3] - 43:15, 57:28, 64:11 30 [2] - 82:23, 83:6 30th [7] - 27:20, 30:14, 58:14, 83:15, 83:18, 84:2, 85:10 31ST [1] - 6:1 32 [1] - 3:15 33 [1] - 84:28 34 [1] - 84:28 36 [2] - 3:16, 30:4 37 [1] - 3:17	7 [2] - 3:4, 3:5 70 [1] - 4:4 70% [1] - 37:17 700 [1] - 33:8 707 [1] - 33:8 77 [1] - 4:5 79 [1] - 4:6 7th [3] - 52:26, 57:23, 58:13			
083 [3] - 47:16, 49:4, 58:5 089 [3] - 46:27, 54:11, 57:16	2007 [3] - 6:6, 6:10, 73:13 2011 [7] - 32:29, 86:9, 86:25, 88:8, 91:13, 91:18 2013 [1] - 36:5 2014 [3] - 28:16, 28:18, 36:8 2014/15 [1] - 78:2 2015 [5] - 27:20, 77:23, 78:2, 85:10, 85:25 2015-2017" [1] - 73:17 2015-30th [1] - 73:8 2016 [8] - 29:24, 48:9, 48:19, 58:13, 73:8, 87:2, 94:20, 95:11 2016-2017 [3] - 30:29, 31:7, 75:7 2016-30th [2] - 73:9, 74:23 2016/2017 [1] - 85:25 2017 [4] - 29:24, 73:9, 74:23, 95:12 2017" [1] - 57:23 2018 [2] - 45:22, 86:9 2019 [33] - 16:25, 34:21,		4	8			
1			4 [5] - 63:7, 63:8, 63:9, 97:13 40 [2] - 3:21, 83:29 42 [1] - 3:22 43 [1] - 3:26	8 [2] - 6:6, 91:9 81 [1] - 4:10 86 [1] - 4:11 89 [1] - 4:12 8th [1] - 54:3			
1 [6] - 29:28, 30:14, 32:29, 63:4, 86:8, 97:9 1,400 [1] - 33:8 10 [1] - 84:1 100 [2] - 4:18, 35:25 100% [2] - 37:17, 38:13 12 [3] - 3:6, 71:11, 84:1 12-month [1] - 28:24 12th [1] - 72:16 13 [1] - 3:7 14 [2] - 3:8, 44:26 15 [1] - 36:6 15th [5] - 51:3, 75:10, 75:18, 75:26, 76:16 16 [1] - 3:9 171-1365 [1] - 56:14 171-1367 [2] - 55:27, 56:5			5	9			
			5 [3] - 6:7, 43:24, 43:25 50 [8] - 29:10, 33:21, 34:3, 35:6, 35:7, 36:4, 84:6, 86:16 55 [3] - 54:20, 56:5, 56:12 59 [1] - 3:27	9 [1] - 44:13 92 [1] - 4:16 97 [1] - 4:17 9th [3] - 27:7, 30:5, 54:8	A		
			5	ability [1] - 88:4 able [22] - 7:18, 14:12, 17:6, 33:16, 33:17, 33:20, 33:22, 34:4, 34:29, 35:13, 36:5, 45:23, 57:3, 57:4, 66:20, 79:24, 79:27, 97:1, 103:17, 103:19, 105:24 absence [2] - 34:12, 52:27 absolutely [1] - 20:22 abused [2] - 17:2, 17:20 abusing [1] - 16:27			
			6				
			6-8 [1] - 49:25 61 [3] - 26:12, 26:19 62 [1] - 72:13 6th [4] - 45:22, 77:15, 77:23,				

ADJOURNED [2] - 19:9, 106:6 adjournment [7] - 8:2, 8:4, 11:24, 12:3, 19:7, 19:18, 104:5 administrator [1] - 24:5 admission [1] - 11:8 adopted [1] - 12:15 advantage [1] - 13:6 ADVICE [4] - 3:6, 3:22, 12:5, 42:18 advice [8] - 12:1, 12:29, 14:26, 19:16, 24:19, 42:14, 42:20, 74:10 advise [2] - 34:18, 55:9 advised [5] - 52:12, 52:15, 52:24, 65:24, 73:27 advising [1] - 73:22 advisors [1] - 13:10 affairs [1] - 71:10 affecting [1] - 95:8 Affina [1] - 94:19 affirm [10] - 22:19, 22:25, 22:26, 40:10, 70:2, 70:3, 81:12, 81:13, 92:19, 92:21 AFFIRMED [5] - 22:28, 40:13, 70:6, 81:16, 92:23 afraid [2] - 50:7, 88:27 afternoon [14] - 6:29, 7:2, 69:24, 70:9, 71:3, 71:5, 80:27, 81:6, 81:19, 82:13, 92:9, 92:26, 93:27, 100:25 afterwards [2] - 7:19, 60:13 agitate [1] - 15:16	ago [4] - 48:10, 49:25, 96:3, 96:8 agree [2] - 95:25, 104:11 agreeable [1] - 20:2 agreed [3] - 28:6, 45:12, 73:10 agreement [1] - 73:9 ahead [1] - 85:29 Aisling [2] - 56:7, 56:18 Ali [1] - 39:22 align [1] - 83:17 allegation [9] - 6:7, 11:8, 11:10, 45:3, 52:21, 62:4, 62:7, 62:9, 91:9 allegations [1] - 61:14 alleged [1] - 51:12 allegedly [1] - 65:19 allocated [1] - 61:26 allocation [2] - 26:1, 76:9 allow [1] - 79:9 allowed [2] - 13:4, 35:14 alone [1] - 48:15 alternatively [1] - 13:14 amended [2] - 6:21, 83:22 amendments [1] - 55:24 analysis [2] - 33:10, 37:3 AND [1] - 19:9 angry [2] - 48:23, 95:26 annotated [1] - 34:15 annotation [1] - 34:13 annoy [1] - 50:3 annual [5] - 25:29, 27:19, 28:4, 37:8, 72:10 Annual [2] - 30:23, 83:10 annually [2] - 35:4, 35:12 annum [1] - 25:20	anonymised [9] - 6:15, 6:16, 23:23, 40:27, 55:14, 70:22, 70:24, 82:5, 93:9 answer [17] - 33:27, 38:14, 38:16, 46:27, 47:16, 58:17, 61:19, 68:19, 76:28, 77:19, 78:13, 79:3, 79:28, 85:27, 87:26, 99:1 answered [1] - 101:22 anxious [3] - 8:26, 13:7, 104:7 anyway [3] - 15:15, 45:24, 57:18 apologies [10] - 23:15, 26:28, 39:1, 41:4, 41:7, 65:15, 69:11, 80:14, 90:27, 102:16 apologise [4] - 50:13, 70:18, 81:29, 89:2 appear [6] - 12:8, 12:11, 12:19, 30:26, 31:12, 67:28 appearing [2] - 32:3, 58:20 appendix [2] - 29:27, 84:8 APPLICATION [2] - 3:4, 7:11 application [10] - 7:13, 8:2, 9:3, 10:16, 12:3, 19:6, 20:24, 21:9, 90:5, 105:11 applications [2] - 7:8, 105:13 appointment [1] - 7:17 appraised [1] - 53:21 appreciate [9] - 19:4, 40:28, 68:1, 70:25, 82:5, 90:18, 90:21, 93:10, 93:12 appreciated [1] - 24:2 appropriate [4] - 18:2, 19:19, 55:14, 55:24 appropriately [1] - 87:26 April [20] - 27:21, 28:25, 29:1, 29:2, 30:14, 31:20, 58:8, 71:28, 73:8, 73:9, 74:23, 83:15, 83:19, 84:2, 85:10 area [2] - 28:13, 60:11 areas [1] - 33:12 arise [2] - 102:8, 105:3 arises [1] - 69:2 arising [2] - 37:1, 71:12 arms [1] - 10:19 arranged [3] - 17:5, 20:4, 49:26 arrangement [1] - 79:25 arrived [2] - 52:4, 94:23 articulate [1] - 105:24 articulating [1] - 105:25 AS [18] - 6:1, 19:10, 22:29, 32:23, 36:24, 38:1, 40:14, 43:9, 59:7, 70:7, 77:10, 79:18, 81:17, 86:4, 89:14, 92:24, 97:29, 100:29 Ashling [2] - 26:28, 27:2 aspect [1] - 83:3 assembled [1] - 11:12 assembling [1] - 33:25 ASSESSOR [5] - 12:7, 42:20, 42:27, 55:6, 55:8 assessor [4] - 23:11, 40:24, 81:26, 93:5 ASSESSOR'S [4] - 3:6, 3:22, 12:5, 42:18 assigned [1] - 62:5 assistance [3] - 91:7, 91:19, 96:23	associated [4] - 24:26, 25:12, 71:20, 75:22 assuming [4] - 9:12, 22:12, 39:13, 42:8 assure [1] - 103:13 attached [7] - 41:14, 41:17, 51:8, 71:21, 72:8, 75:21, 93:28 attempt [1] - 65:1 attend [3] - 51:28, 53:12, 90:25 attendance [11] - 6:26, 23:13, 38:29, 69:10, 70:17, 70:28, 80:13, 81:28, 88:6, 102:13, 105:19 attended [1] - 51:11 attention [5] - 6:28, 75:17, 93:8, 97:8, 105:4 attenuated [1] - 8:18 attest [8] - 22:25, 22:26, 40:10, 70:2, 70:4, 81:12, 81:14, 92:19 attitude [1] - 12:22 audit [8] - 83:27, 83:28, 83:29, 84:6, 86:28, 87:5, 87:6 August [9] - 54:1, 64:20, 65:11, 65:19, 66:7, 66:25, 67:2, 68:6, 68:12 availability [4] - 104:14, 104:15, 104:16 available [12] - 7:2, 15:5, 15:8, 19:26, 20:14, 57:11, 88:24, 91:22, 102:29, 103:14, 104:3, 104:28 avenues [1] - 82:24 avoid [1] - 95:24	awaited [1] - 52:23 aware [14] - 16:7, 36:2, 48:22, 52:20, 53:4, 53:6, 60:19, 65:26, 66:20, 66:26, 66:29, 85:7, 87:9, 87:10 B B" [3] - 6:16, 40:29, 70:24 B's [10] - 12:17, 13:3, 16:12, 32:11, 84:18, 85:8, 91:8, 91:10, 101:6, 103:7 BJ [5] - 51:27, 52:4, 53:25, 57:22, 94:18 BJ" [1] - 50:19 BJ's [2] - 52:11, 53:1 backfill [1] - 37:11 bad [2] - 49:9, 104:22 badly [1] - 18:14 bank [2] - 9:4, 21:12 barrier [2] - 33:11, 33:15 barrister [6] - 10:10, 10:14, 14:3, 14:6, 41:11, 79:5 based [1] - 50:27 basic [1] - 82:28 basis [6] - 15:18, 20:19, 21:1, 42:29, 45:12, 72:10 BE [2] - 43:8, 106:6 bear [3] - 26:16, 29:29, 32:15 became [3] - 52:20, 53:6, 86:15 become [2] - 53:7, 103:26 becomes [1] - 95:25 beginning [4] - 46:27, 47:16, 54:11, 84:3
--	--	--	---	---

begins [2] - 57:16, 83:20 begun [1] - 84:25 behalf [3] - 41:12, 45:29, 71:1 behaviour [7] - 50:11, 63:12, 63:13, 78:26, 95:6, 98:23, 98:27 behind [1] - 18:4 below [1] - 57:20 benefit [7] - 13:10, 16:24, 20:9, 58:19, 67:10, 77:2, 78:18 best [7] - 14:21, 14:23, 44:29, 76:20, 104:20, 104:25, 105:16 better [1] - 79:3 between [6] - 66:15, 84:14, 85:2, 85:9, 87:8, 95:11 beyond [2] - 23:15, 82:3 Bible [1] - 40:11 biggest [1] - 63:27 bit [7] - 22:20, 57:17, 59:19, 63:1, 65:17, 98:22 blame [1] - 68:10 blank [1] - 31:16 block [3] - 17:28, 20:4, 104:12 blue [1] - 47:20 BMJ [1] - 33:3 board [1] - 51:25 bodies [9] - 25:4, 28:7, 28:23, 82:27, 87:16, 88:1, 88:3, 88:21, 88:23 body [12] - 24:15, 24:27, 24:29, 25:2, 25:15, 63:12, 63:14, 72:5, 85:13, 95:6, 98:24, 98:27 book [18] -	22:18, 22:24, 26:12, 26:13, 40:9, 41:25, 43:12, 54:21, 56:5, 56:11, 56:16, 70:1, 72:13, 81:11, 84:12, 92:18, 92:20, 94:8 booklet [1] - 94:6 bottom [5] - 26:21, 27:4, 28:1, 30:6, 58:10 box [2] - 57:28, 58:10 break [1] - 91:26 breaking [1] - 22:20 briefly [1] - 84:10 bring [17] - 17:12, 20:15, 39:16, 39:17, 39:18, 41:24, 43:24, 68:2, 77:23, 84:8, 84:11, 84:28, 88:13, 93:8, 96:20, 104:12, 104:24 bringing [3] - 17:13, 67:7, 86:18 brings [1] - 17:12 broad [4] - 37:2, 37:3, 82:17, 82:20 bundle [1] - 59:15 bundles [3] - 56:11, 56:16, 59:14 business [1] - 47:21 BY [42] - 3:4, 3:5, 3:7, 3:8, 3:9, 3:14, 3:15, 3:16, 3:17, 3:21, 3:26, 3:27, 4:4, 4:5, 4:6, 4:10, 4:11, 4:12, 4:16, 4:17, 4:18, 7:11, 7:28, 13:27, 14:29, 16:15, 22:29, 32:23, 36:24, 37:29, 40:14, 43:8, 59:7, 70:7, 77:10, 79:18,	81:16, 86:4, 89:14, 92:23, 97:29, 100:29 bye [2] - 106:1	C camera [9] - 19:2, 22:5, 22:8, 32:20, 54:25, 54:28, 55:3, 69:26, 92:11 cannot [4] - 36:6, 62:27, 66:28, 73:15 capacity [1] - 26:4 captures [1] - 84:3 car [1] - 39:7 care [4] - 69:15, 91:2, 102:20, 105:29 carefully [1] - 19:15 caring [1] - 68:8 case [24] - 9:9, 9:11, 9:16, 11:13, 17:7, 17:12, 21:16, 40:27, 42:22, 61:15, 61:26, 62:2, 62:3, 62:19, 62:24, 66:15, 83:14, 83:21, 87:12, 91:17, 93:9, 102:27, 103:4 Castlebar [4] - 94:21, 95:10, 95:12, 95:21 categories [1] - 26:5 caused [10] - 23:16, 39:1, 41:5, 41:7, 69:12, 70:18, 80:15, 81:29, 90:28, 102:17 caution [7] - 45:18, 46:6, 46:9, 46:12, 50:16, 52:29, 93:18 cautioned [4] - 45:11, 52:6, 52:8, 52:16 central [2] - 24:13, 24:16 CEO [7] - 10:19, 41:3, 67:16, 71:1,	82:11, 93:24, 102:27 CEO's [3] - 17:12, 21:11, 21:17 certain [3] - 25:19, 71:24, 86:19 certainly [6] - 15:18, 18:22, 20:5, 21:23, 33:29, 55:29 certificate [1] - 38:8 Chair [25] - 8:1, 21:4, 21:8, 21:24, 22:7, 23:6, 24:4, 37:26, 39:13, 69:20, 70:10, 80:10, 80:11, 80:21, 80:29, 81:20, 89:10, 91:6, 91:21, 92:5, 100:18, 100:24, 102:9, 102:24, 106:2 chair [1] - 36:19 chairing [2] - 40:18, 92:28 Chairman [4] - 54:22, 55:9, 69:6, 92:6 chairman [5] - 11:27, 12:7, 12:14, 42:20, 55:6 CHAIRPERSON [115] - 6:4, 7:25, 9:21, 9:29, 10:5, 10:7, 10:15, 10:23, 11:6, 11:20, 11:29, 13:25, 14:25, 15:5, 16:6, 16:9, 16:29, 18:3, 18:20, 19:3, 19:14, 20:22, 21:5, 21:19, 21:21, 21:29, 23:2, 23:5, 23:11, 23:20, 23:27, 32:1, 32:7, 32:15, 32:19, 36:11, 36:14, 36:18, 36:21, 37:27, 38:23, 39:4, 39:7, 39:9, 40:16, 40:18, 42:14, 42:26, 54:26, 55:2, 55:7, 55:17,	55:28, 56:2, 56:6, 58:18, 59:3, 59:5, 63:28, 67:9, 67:14, 67:20, 67:28, 68:18, 68:26, 68:28, 69:4, 69:8, 69:15, 69:22, 70:9, 77:1, 77:16, 77:19, 77:26, 78:11, 78:22, 79:7, 79:20, 79:28, 80:2, 80:12, 80:17, 80:25, 81:1, 81:3, 81:19, 82:9, 89:5, 89:8, 89:12, 89:29, 90:13, 90:24, 90:27, 91:20, 92:2, 92:7, 92:26, 93:26, 100:16, 100:19, 101:20, 101:29, 102:6, 102:10, 102:20, 103:5, 103:10, 103:28, 104:5, 105:8, 105:18, 105:29, 106:3 challenge [1] - 43:3 champion [1] - 72:23 Champion [2] - 84:24, 85:5 change [7] - 38:21, 38:22, 49:7, 86:15, 86:19, 90:3, 91:15 changed [4] - 38:19, 48:26, 90:5, 90:12 changing [2] - 49:11, 49:14 chart [2] - 53:18, 54:7 check [2] - 80:25, 92:2 Chief [1] - 41:12 choice [1] - 42:21 chronological [1] - 54:7 circulated [1] - 73:21 circumstances [7] - 14:8, 21:14, 30:14, 37:16, 44:29, 82:3 claim [1] - 87:4	claiming [1] - 66:6 clarification [2] - 30:12, 43:5 clarified [1] - 46:2 clarify [6] - 47:22, 47:27, 56:24, 59:2, 60:11, 89:28 clarifying [1] - 59:28 clean [1] - 9:19 clear [5] - 14:25, 18:26, 64:1, 90:22, 105:9 clearly [3] - 65:12, 78:14, 101:22 client [1] - 16:23 close [2] - 22:10, 104:13 colleague [5] - 51:13, 51:18, 72:18, 84:23, 85:5 colleagues [12] - 11:23, 36:15, 50:13, 68:29, 69:4, 80:9, 80:26, 80:28, 89:8, 92:3, 100:16, 105:3 college [2] - 24:5, 71:17 colleges [4] - 86:26, 87:8, 87:23, 88:22 Colleran [1] - 15:14 column [1] - 29:6 columns [1] - 29:4 coming [2] - 42:2, 86:6 commenced [1] - 91:18 comment [7] - 11:28, 29:24, 53:15, 78:25, 78:29, 88:18, 97:8 comments [1] - 14:26 committee [11] - 11:23, 13:1, 23:6, 24:11, 28:21, 36:15, 68:29, 69:4, 70:10, 91:7, 100:16
--	--	---	--	--	---	---

Committee ^[65] - 6:5, 6:29, 8:6, 12:1, 12:14, 12:20, 12:23, 12:25, 12:29, 13:7, 13:11, 13:14, 13:19, 13:23, 15:15, 15:25, 15:29, 16:7, 16:10, 17:3, 17:14, 19:5, 19:17, 20:27, 21:2, 23:8, 23:11, 31:29, 40:19, 40:20, 40:23, 40:24, 41:26, 42:3, 42:4, 42:9, 42:11, 43:1, 43:16, 70:12, 70:14, 80:8, 80:25, 80:28, 81:21, 81:22, 81:24, 81:26, 82:14, 82:17, 89:8, 91:19, 91:26, 92:2, 92:27, 92:29, 93:1, 93:4, 93:6, 97:2, 100:14, 104:2, 104:6, 105:3 COMMITTEE ^[14] - 3:6, 3:10, 3:17, 3:22, 4:6, 4:12, 4:18, 12:5, 19:12, 37:29, 42:18, 79:18, 89:14, 100:29 Committee's ^[3] - 8:29, 91:23, 104:14 communicate ^[3] - 50:1, 88:3, 88:22 communicatin ^[1] - 95:2 communicatio ^[3] - 50:2, 50:4, 87:29 communicatio ^[2] - 24:22, 51:19 company ^[1] - 94:19 Competence ^[3] - 30:24, 73:5, 75:6 competence ^[22] - 33:18, 35:16, 71:13,	71:21, 72:8, 75:22, 76:2, 82:15, 82:22, 82:24, 82:26, 83:1, 83:7, 83:12, 86:12, 86:22, 87:17, 88:2, 89:24, 89:27, 90:2, 90:10 competent ^[4] - 25:5, 25:14, 29:18, 31:19 compiled ^[5] - 44:9, 53:18, 54:7, 54:17, 61:15 complain ^[2] - 61:21, 67:5 complainant ^[3] - 6:15, 70:21, 93:11 complaint ^[29] - 45:1, 50:26, 50:27, 51:11, 52:19, 52:23, 52:25, 53:1, 59:11, 60:29, 61:1, 61:4, 61:10, 61:11, 61:12, 61:17, 61:23, 61:25, 61:28, 63:21, 63:25, 64:9, 68:16, 94:2, 94:25, 94:27 complaints ^[1] - 67:23 complete ^[15] - 11:4, 25:19, 34:4, 35:1, 35:2, 35:13, 35:14, 35:24, 36:4, 36:5, 36:7, 38:20, 64:15, 86:16, 90:9 completed ^[3] - 25:29, 76:9, 89:4 completely ^[2] - 26:29, 95:2 completing ^[2] - 86:16, 86:27 completion ^[1] - 38:8 compliance ^[10] - 29:16, 37:3, 37:12, 37:15, 72:2, 72:4, 85:8, 91:10, 91:11, 91:17 compliant ^[3] - 10:29, 11:2, 37:17 complied ^[2] -	29:15, 85:14 comprises ^[1] - 81:22 compromised ^[2] - 10:4, 10:13 concentrate ^[1] - 95:4 concern ^[4] - 11:19, 11:20, 45:3, 64:11 concerned ^[2] - 51:20, 91:17 concerns ^[6] - 10:26, 11:15, 11:17, 51:23, 105:23, 105:26 conclude ^[2] - 9:11, 36:11 concluding ^[1] - 9:8 conclusion ^[3] - 33:15, 104:25, 104:26 conclusions ^[1] - 33:26 conduct ^[3] - 18:23, 18:29, 78:27 conducted ^[3] - 52:8, 52:10, 96:15 conducting ^[1] - 60:2 confidence ^[1] - 103:16 confirm ^[12] - 22:4, 30:12, 43:19, 51:23, 59:1, 62:12, 66:28, 73:2, 73:7, 76:5, 92:10, 94:13 confirmation ^[1] - 54:9 confirmed ^[1] - 52:5 confused ^[5] - 14:10, 60:13, 60:16, 60:18, 101:23 confusingly ^[1] - 83:17 connection ^[3] - 25:18, 32:11, 100:23 consented ^[1] - 51:26 consequences ^[2] - 18:10, 18:16 consider ^[3] -	13:14, 19:6, 105:11 consideration ^[1] - 13:23 considered ^[1] - 19:15 considering ^[2] - 11:7, 12:3 constantly ^[2] - 16:20, 94:23 constitutes ^[1] - 89:26 constrain ^[1] - 67:11 constraints ^[3] - 8:11, 9:1, 80:27 consultant ^[3] - 36:9, 71:6, 94:25 contact ^[27] - 7:14, 7:16, 7:22, 45:2, 45:6, 47:6, 48:18, 48:22, 48:27, 48:28, 50:10, 50:12, 50:14, 51:23, 52:3, 52:13, 52:14, 53:10, 53:20, 53:26, 53:27, 54:12, 57:8, 66:2, 96:10, 96:12, 99:16 contacted ^[9] - 51:26, 52:15, 53:11, 53:23, 53:25, 68:14, 95:13, 95:17, 99:15 contacting ^[3] - 52:17, 68:15, 74:20 contained ^[1] - 44:11 content ^[1] - 28:6 contention ^[1] - 17:20 contentions ^[1] - 12:12 contents ^[3] - 52:23, 66:27, 103:18 contest ^[1] - 11:9 contested ^[1] - 8:20 context ^[1] - 50:28 continue ^[10] - 20:3, 20:8, 20:9, 20:24, 80:26,	80:29, 92:3, 92:5, 92:6, 105:10 CONTINUED ^[2] - 19:10, 43:8 continuing ^[1] - 17:26 continuity ^[1] - 43:28 continuous ^[2] - 24:8, 33:6 contracts ^[2] - 94:20, 95:9 contravention ^[1] - 6:9 control ^[1] - 82:3 controls ^[1] - 23:15 controversial ^[3] - 8:20, 10:24, 71:19 controversy ^[1] - 10:28 convene ^[3] - 104:10, 104:11, 104:29 convenience ^[2] - 20:5, 105:10 convenient ^[1] - 55:4 conversation ^[2] - 50:28, 65:14 convey ^[4] - 44:12, 48:17, 65:16, 65:24 conveyed ^[2] - 44:9, 44:24 convinced ^[1] - 51:17 cooperative ^[1] - 67:27 copies ^[1] - 52:18 copy ^[11] - 26:25, 28:4, 73:29, 101:2, 101:5, 101:10, 101:12, 101:16, 101:17, 101:18 core ^[6] - 26:12, 26:13, 56:5, 56:11, 56:15, 72:13 corner ^[2] - 97:9, 97:12 correct ^[51] - 6:21, 24:25, 25:16, 26:10, 26:18, 28:27, 29:14, 29:19, 33:23, 34:2, 35:3,	35:29, 40:5, 41:16, 46:6, 50:23, 51:4, 57:26, 57:29, 58:3, 58:15, 61:24, 62:20, 66:1, 66:11, 66:19, 67:2, 71:8, 71:23, 71:27, 71:29, 72:1, 72:6, 72:11, 72:12, 75:2, 75:14, 75:19, 75:24, 75:28, 75:29, 76:3, 76:12, 76:17, 77:15, 83:23, 94:1, 94:15, 96:2, 98:8, 100:1 correct" ^[2] - 54:14, 95:27 corrections ^[3] - 37:15, 44:4, 44:19 correctly ^[1] - 79:13 correspondenc ^[2] - 73:21, 85:4 corresponding ^[1] - 84:21 corrupted ^[1] - 12:13 Council ^[39] - 25:29, 27:10, 27:11, 28:11, 30:7, 38:5, 38:10, 38:11, 38:12, 41:12, 53:5, 62:25, 62:27, 72:24, 73:10, 78:10, 78:19, 78:21, 79:26, 80:23, 82:16, 83:9, 83:11, 84:25, 85:12, 86:10, 87:4, 87:8, 87:12, 87:14, 87:21, 88:2, 88:5, 88:8, 89:19, 91:16, 98:9, 98:16, 106:3 Council's ^[1] - 78:26 counsel ^[23] - 16:11, 16:13, 17:19, 20:16, 21:22, 23:12, 32:4, 32:8, 58:25, 70:15, 70:29, 77:3, 77:6, 80:6,
---	--	---	---	--	--

81:25, 82:10, 93:5, 93:20, 93:24, 102:15, 103:15, 104:6, 104:27 counsel's [1] - 104:16 counselling [1] - 49:21 counter [1] - 52:21 counter- allegation [1] - 52:21 countries [1] - 18:5 country [3] - 18:17, 49:22, 54:3 couple [1] - 55:10 course [4] - 25:18, 42:11, 68:26, 68:28 court [5] - 16:22, 56:11, 56:16, 59:14, 59:15 cover [3] - 11:2, 16:21, 17:9 Covid [5] - 29:11, 44:22, 83:22, 84:3, 84:7 CPD [57] - 8:12, 10:26, 10:27, 11:3, 11:4, 11:5, 11:12, 11:16, 11:18, 12:19, 19:20, 21:26, 24:9, 25:20, 26:1, 29:16, 32:28, 35:26, 37:4, 38:20, 71:25, 76:9, 77:15, 77:23, 78:1, 78:2, 78:4, 78:9, 78:19, 79:5, 79:23, 82:19, 83:15, 83:29, 84:6, 85:9, 85:15, 86:9, 86:16, 86:25, 86:27, 87:14, 87:22, 87:27, 87:29, 88:5, 88:6, 88:7, 88:10, 88:13, 88:16, 88:17, 88:29, 89:20, 90:4, 90:9, 90:10 CPD [1] - 87:20 CPI [1] - 25:5	create [1] - 88:10 credit [1] - 71:25 credits [10] - 29:10, 29:12, 35:6, 35:7, 35:9, 76:10, 83:27, 83:28, 83:29, 89:25 criticism [1] - 9:15 CROSS [10] - 3:15, 3:27, 4:5, 4:11, 4:17, 32:23, 59:7, 77:10, 86:4, 97:29 cross [22] - 8:14, 8:24, 12:12, 13:5, 13:9, 13:16, 14:15, 14:22, 15:17, 15:22, 20:17, 39:19, 43:5, 58:24, 77:7, 80:5, 93:21, 102:16, 103:2, 103:7, 103:21, 105:23 cross- examination [8] - 13:5, 13:9, 15:17, 43:5, 80:5, 93:21, 102:16, 103:2 cross- examinations [1] - 103:7 cross-examine [10] - 8:14, 12:12, 13:16, 14:15, 14:22, 15:22, 20:17, 77:7, 103:21, 105:23 CROSS- EXAMINED [10] - 3:15, 3:27, 4:5, 4:11, 4:17, 32:23, 59:7, 77:10, 86:4, 97:29 cross- examined [1] - 58:24 cross- examining [1] - 8:24 cross- questioning [1] - 39:19 Cullen [1] - 103:3 current [2] - 73:11, 74:7	D Dara [2] - 69:21, 84:17 DARA [2] - 4:2, 70:6 data [16] - 30:29, 31:13, 33:25, 57:9, 59:16, 64:8, 66:10, 66:12, 75:5, 75:7, 75:9, 75:26, 76:14, 76:16, 88:21, 96:25 Data [2] - 96:21, 96:24 date [16] - 8:25, 15:22, 24:20, 24:23, 43:21, 51:2, 57:23, 58:13, 73:29, 75:10, 75:17, 94:5, 97:4, 99:18, 99:22 DATE [1] - 106:6 dated [3] - 58:1, 58:8, 72:16 dates [7] - 21:12, 21:13, 21:17, 66:26, 85:17, 85:18, 87:13 DAVIN [8] - 11:28, 69:6, 80:11, 80:29, 89:10, 89:16, 92:5, 100:18 Davin [7] - 23:8, 40:21, 40:22, 70:12, 81:22, 91:8, 93:2 DAVIN-POWER [8] - 11:28, 69:6, 80:11, 80:29, 89:10, 89:16, 92:5, 100:18 Davin-Power [6] - 23:8, 40:21, 40:22, 70:12, 81:22, 93:2 Davin-Power's [1] - 91:8 day [1] - 98:18 days [14] - 9:5, 9:7, 9:13, 9:20, 17:27, 17:28, 20:4, 20:13, 20:26, 52:20, 82:23, 83:6,	103:23, 104:12 deal [4] - 8:12, 8:28, 15:21, 42:23 dealing [1] - 62:13 dealt [1] - 43:4 Dear [1] - 72:27 December [1] - 58:13 decide [2] - 20:20, 105:9 decided [1] - 19:17 deciding [1] - 43:1 DECISION [2] - 3:10, 19:12 decision [1] - 20:23 Declaration [1] - 83:10 declaration [6] - 38:18, 86:10, 86:11, 86:15, 86:18, 98:7 declined [1] - 53:14 deemed [1] - 82:29 default [1] - 18:25 defence [1] - 67:14 deferred [1] - 56:4 deficit [3] - 35:14, 35:24, 35:25 define [1] - 89:25 definitely [2] - 33:28, 34:27 Deirdre [3] - 22:2, 30:10, 33:4 DEIRDRE [2] - 3:12, 22:28 deleted [9] - 73:23, 73:26, 74:10, 74:24, 75:9, 75:27, 76:7, 76:12, 85:20 deleted [1] - 75:11 deletion [2] - 73:29, 75:18 demonstrates [1] - 29:15 denied [1] - 53:27	department [1] - 24:13 departure [1] - 16:11 depressed [3] - 95:14, 95:16, 95:19 depression [1] - 95:15 describe [1] - 28:2 designed [1] - 30:23 detail [3] - 63:22, 64:13, 99:14 details [6] - 44:11, 57:15, 57:19, 58:5, 96:10, 96:12 determine [2] - 12:21, 75:6 determined [1] - 9:5 development [3] - 24:9, 33:7, 71:9 DEVINS [18] - 11:27, 36:17, 37:26, 38:3, 38:15, 54:22, 54:29, 69:7, 80:10, 81:2, 92:6, 100:24, 101:2, 101:6, 101:8, 101:13, 101:15, 101:19 Devins [12] - 23:9, 40:21, 54:26, 70:13, 81:1, 81:23, 93:3, 100:19, 100:22, 100:23, 101:20 Diarmid [1] - 93:4 diarmaid [2] - 40:23, 81:25 Diarmuid [2] - 23:12, 70:15 different [15] - 9:17, 25:15, 25:26, 49:10, 56:27, 57:1, 62:1, 62:6, 64:3, 64:16, 86:26, 96:17 difficult [4] - 17:18, 21:2, 37:6, 64:27 difficulties [1] - 91:23 difficulty [2] -	21:26, 43:6 direct [1] - 13:2 direction [1] - 19:25 DIRECTLY [6] - 3:14, 3:21, 4:4, 22:28, 40:13, 70:6 disability [2] - 34:8, 34:18 disclose [4] - 6:20, 7:1, 55:21, 76:8 disclosed [2] - 96:25, 96:27 disclosures [1] - 6:22 discommoded [1] - 23:14 discrepancy [2] - 87:7, 87:9 discussed [3] - 33:14, 66:9, 66:15 disruption [2] - 79:11, 80:3 disruptions [1] - 41:6 distinct [1] - 8:19 distracting [1] - 95:8 distressed [1] - 51:17 disturbing [1] - 18:9 Division [1] - 28:22 doctor [21] - 25:28, 28:5, 28:10, 28:15, 30:25, 31:10, 33:7, 34:3, 34:18, 35:26, 35:29, 36:3, 51:13, 79:2, 79:22, 82:25, 83:4, 85:19, 85:24, 89:18, 94:18 doctors [11] - 34:29, 37:4, 73:22, 73:25, 73:26, 82:20, 86:20, 87:15, 87:28, 88:20, 88:24 Doctors [1] - 53:5 document [26] - 10:9, 10:12, 28:2,
--	--	---	--	---	--

29:14, 39:17, 44:28, 45:13, 55:27, 56:8, 56:15, 56:22, 57:29, 58:8, 59:12, 61:3, 62:25, 63:19, 64:2, 64:4, 64:6, 84:29, 96:22, 97:1, 97:2, 98:16, 101:25 documentation [8] - 10:2, 10:26, 11:16, 11:17, 11:18, 11:19, 59:16, 72:10 documenting [1] - 74:11 documents [8] - 8:13, 8:19, 10:3, 42:7, 56:23, 65:25, 67:17, 103:27 documents/ Statement [1] - 73:28 done [7] - 11:4, 18:13, 25:22, 33:2, 67:20, 86:23, 105:25 DONEGAN [11] - 3:12, 22:9, 22:14, 22:17, 22:20, 22:23, 22:26, 22:28, 32:23, 36:24, 37:29 Donegan [18] - 22:2, 22:3, 22:6, 23:3, 24:4, 26:15, 27:6, 28:17, 29:29, 30:4, 31:25, 32:2, 33:5, 36:26, 36:28, 37:23, 38:3, 85:2 doubt [2] - 10:29, 18:18 down [14] - 27:4, 27:14, 27:28, 28:1, 46:1, 57:13, 57:14, 57:20, 59:18, 63:6, 91:11 download [4] - 28:5, 73:27, 74:11, 75:8 downloaded [1] - 76:16 DPP [4] - 53:17, 62:17, 62:23, 62:28	Dr [22] - 23:2, 23:8, 40:21, 40:22, 70:12, 71:4, 72:15, 76:27, 77:2, 77:28, 78:6, 79:8, 80:3, 80:13, 81:22, 91:8, 92:5, 93:1, 103:2, 103:3, 103:4 dR [4] - 69:6, 80:11, 89:16, 100:18 DR [5] - 4:2, 11:28, 70:6, 80:29, 89:10 draw [3] - 6:28, 97:7, 105:4 draws [1] - 75:17 dropped [1] - 32:13 drunk [2] - 95:19, 95:21 Dubh [1] - 47:10 due [2] - 25:18, 73:22 during [2] - 83:22, 94:2 duty [3] - 16:22, 51:9, 89:1	effect [3] - 83:19, 83:24, 95:4 efficient [1] - 9:19 efficiently [1] - 105:15 effort [1] - 68:1 efforts [1] - 50:14 ehm [2] - 94:4, 99:1 either [19] - 6:17, 7:7, 8:24, 11:24, 22:18, 22:24, 40:9, 43:5, 56:25, 69:29, 76:18, 81:10, 82:25, 87:2, 87:3, 92:18, 96:11, 105:13, 105:14 elsewhere [1] - 75:9 emotional [1] - 95:3 emotionally [1] - 49:13 emphasise [1] - 55:18 employed [1] - 94:19 enclosed [1] - 73:29 encounter [1] - 45:13 encounters [1] - 64:24 encourage [2] - 88:20, 104:18 end [5] - 35:9, 44:16, 45:14, 55:29, 84:7 ended [4] - 48:12, 49:25, 49:27, 84:2 ending [2] - 29:1, 31:19 ends [2] - 57:16, 58:5 engage [2] - 60:12, 103:16 engagement [1] - 88:19 enquiries [1] - 24:17 enrol [2] - 33:16, 82:25 enrolled [10] - 28:16, 28:18, 30:13, 30:25,	38:18, 73:4, 73:22, 85:19, 85:24 enrolled [1] - 38:19 enrolment [3] - 24:16, 28:14, 73:8 entirely [2] - 77:27, 83:17 entirety [4] - 9:9, 13:15, 97:17, 97:19 entitled [3] - 13:14, 63:29, 78:23 entitlement [1] - 11:9 entries [1] - 29:1 entry [1] - 31:6 eportfolio [6] - 24:17, 26:2, 26:3, 26:8, 28:6, 34:14 eportfolios [1] - 73:23 equality [1] - 10:19 error [1] - 97:20 essence [1] - 43:28 essentially [1] - 24:20 establish [2] - 50:1, 50:4 etc [1] - 66:21 event [1] - 6:17 evidence [65] - 8:21, 12:16, 12:23, 12:26, 13:2, 13:8, 13:16, 13:20, 13:22, 14:1, 14:21, 17:13, 20:16, 22:16, 22:22, 23:17, 25:17, 25:22, 29:16, 31:17, 33:12, 33:21, 40:7, 41:3, 42:12, 42:28, 46:4, 67:8, 67:12, 67:16, 67:21, 68:4, 68:20, 68:22, 69:11, 69:29, 70:19, 70:26, 72:2, 72:4, 75:20, 77:14, 78:2, 78:7, 78:14, 79:14, 79:22, 80:24, 81:9, 82:1, 82:7, 83:11,	85:12, 90:21, 91:28, 92:17, 93:11, 93:19, 93:22, 101:23, 101:25, 102:13, 102:29, 103:18, 105:26 exact [5] - 48:21, 66:26, 86:19, 87:10, 89:25 exactly [6] - 23:20, 28:9, 48:7, 48:9, 101:3, 102:1 examination [9] - 13:5, 13:9, 15:17, 36:20, 43:5, 80:5, 93:21, 102:16, 103:2 examinations [1] - 103:7 examine [11] - 8:14, 12:12, 13:16, 14:15, 14:22, 15:22, 20:17, 33:5, 77:7, 103:21, 105:23 EXAMINED [24] - 3:14, 3:15, 3:16, 3:21, 3:26, 3:27, 4:4, 4:5, 4:10, 4:11, 4:16, 4:17, 22:29, 32:23, 36:24, 40:14, 43:8, 59:7, 70:7, 77:10, 81:16, 86:4, 92:23, 97:29 examined [1] - 58:24 examining [1] - 8:24 exchange [4] - 47:26, 84:14, 84:29, 85:1 excuse [3] - 57:13, 96:15, 96:17 Executive [1] - 41:12 exhibits [2] - 53:18, 54:7 exist [1] - 76:14 existence [1] - 10:1 existing [1] - 35:17 expectation [1] - 84:1 expeditiously	[3] - 17:17, 104:7, 104:13 experience [1] - 33:5 expert [2] - 56:24, 103:3 expired [1] - 74:6 explain [10] - 9:23, 14:2, 14:5, 17:19, 23:22, 24:11, 28:14, 31:6, 56:21, 56:22 extent [2] - 8:15, 16:4 extenuating [1] - 21:14 external [1] - 29:9 extreme [1] - 21:14 extremis [1] - 8:25
					F
					face [2] - 10:11, 104:21 facial [1] - 94:28 facility [1] - 87:24 fact [9] - 8:18, 13:1, 17:3, 18:28, 25:22, 42:27, 45:9, 96:5, 105:21 factor [1] - 13:23 faculties [1] - 25:3 fair [6] - 9:28, 9:29, 10:18, 10:21, 48:3, 104:8 fairly [1] - 17:17 familiar [3] - 72:19, 72:21, 97:1 familiarise [1] - 103:17 familiarity [1] - 71:13 family [5] - 18:8, 18:13, 18:21, 49:24, 99:15 FAQ [1] - 34:27 FAQs [2] - 34:26, 34:27 far [5] - 12:16,

34:20, 89:17, 92:4, 98:2 favour [2] - 14:14, 17:13 fax [3] - 100:4, 100:6, 100:8 fear [1] - 17:13 feature [1] - 30:15 February [2] - 53:11, 57:23 fee [1] - 73:8 feedback [2] - 25:24, 36:27 felt [6] - 94:29, 95:1, 95:2, 95:6, 95:10, 95:22 females [1] - 33:9 few [7] - 7:14, 7:16, 9:20, 36:3, 58:29, 59:26, 103:23 field [1] - 56:24 Fieldfisher [2] - 16:26, 78:1 fifth [1] - 35:9 file [2] - 53:17, 96:28 files [1] - 72:20 fill [1] - 24:23 financial [1] - 76:5 fine [7] - 19:2, 40:4, 41:8, 50:15, 62:29, 92:14, 104:4 finished [1] - 92:1 finishes [1] - 67:16 firm [2] - 15:27, 103:16 firms [3] - 7:16, 16:1, 103:24 first [27] - 7:4, 9:23, 11:7, 14:22, 15:2, 18:20, 19:27, 21:25, 21:27, 26:22, 26:24, 26:26, 27:3, 28:16, 32:25, 34:23, 57:12, 60:25, 61:9, 64:7, 74:17, 77:12, 77:13, 84:23, 101:7 firstly [1] - 74:8 fit [1] - 42:24 fitness [1] - 6:5	five [14] - 11:4, 29:9, 29:10, 33:10, 35:3, 35:4, 35:28, 73:12, 74:6, 78:4, 78:9, 78:20, 79:23, 85:9 five-year [3] - 35:3, 35:4, 35:28 fix [1] - 9:4 FIXED [1] - 106:6 flag [2] - 58:22, 61:8 fluctuating [1] - 54:24 Flynn [1] - 103:4 focused [1] - 85:8 follow [4] - 85:1, 86:22, 89:6, 98:13 followed [3] - 84:26, 85:5, 85:23 Following [1] - 53:1 following [10] - 37:10, 43:28, 44:4, 44:19, 53:16, 73:2, 75:29, 83:27, 95:22, 95:23 FOLLOWS [18] - 6:2, 19:10, 22:29, 32:23, 36:24, 38:1, 40:14, 43:9, 59:8, 70:7, 77:10, 79:18, 81:17, 86:4, 89:14, 92:24, 97:29, 100:29 foot [1] - 50:25 FOR [1] - 19:9 force [2] - 83:24, 91:12 foreign [1] - 47:18 forewarned [1] - 54:19 forgot [2] - 37:8, 37:11 form [1] - 53:27 formalities [1] - 57:10 format [1] - 45:16 former [2] - 51:13, 51:17 forms [1] - 91:16	forum [2] - 55:12, 55:16 forward [4] - 15:18, 18:19, 27:19, 102:3 forwarded [9] - 52:19, 99:10, 99:19, 99:23, 100:3, 100:10, 101:11, 101:18, 101:28 four [10] - 9:4, 9:7, 17:27, 17:28, 20:4, 29:18, 30:24, 44:16, 98:3, 104:12 framework [1] - 24:28 free [1] - 46:17 Friday [5] - 47:2, 47:3, 74:24, 75:10, 75:18 friend [1] - 99:15 friends [2] - 50:12, 99:7 front [2] - 41:28, 42:10 froze [2] - 26:29, 35:20 fulfil [3] - 35:27, 73:12, 87:27 fulfilled [2] - 87:26, 88:12 fully [2] - 8:6, 62:1 function [1] - 95:18 future [3] - 9:5, 31:3, 77:5	40:3, 40:5, 40:8, 40:11, 40:13, 43:8, 59:7, 92:13, 92:15, 92:20, 92:23 Garda [53] - 21:27, 40:1, 41:9, 41:13, 41:15, 42:5, 43:14, 44:7, 46:15, 51:2, 51:8, 51:9, 51:10, 52:9, 52:22, 52:27, 52:28, 53:13, 54:16, 56:22, 57:7, 57:8, 58:16, 58:19, 58:28, 61:7, 64:5, 64:10, 67:12, 67:16, 67:25, 68:7, 68:11, 68:19, 69:5, 69:9, 91:23, 92:8, 92:9, 92:26, 93:27, 93:28, 94:10, 94:12, 96:22, 96:24, 97:23, 98:17, 99:19, 100:13, 101:22, 102:12 garda [44] - 8:13, 10:3, 10:12, 10:24, 11:17, 12:26, 13:8, 13:15, 13:17, 13:18, 15:3, 15:19, 19:21, 19:26, 19:27, 21:25, 39:15, 40:16, 41:17, 41:25, 61:4, 61:21, 62:5, 62:7, 62:9, 62:14, 63:18, 64:3, 65:4, 65:29, 66:8, 66:14, 66:18, 66:21, 66:23, 67:24, 94:6, 96:18, 98:6, 98:16, 99:16 gardaí [1] - 15:9 Gardaí [5] - 66:27, 96:6, 99:23, 101:28, 102:4 gazing [1] - 95:7 GDPR [1] - 73:22 General [1] - 28:21 general [6] - 33:22, 34:3,	34:10, 34:11, 35:15, 87:6 generally [1] - 37:13 generated [1] - 37:13 gentleman [1] - 45:4 gentlemen [1] - 67:26 gestures [1] - 94:28 girlfriend [1] - 49:24 given [22] - 12:1, 20:2, 25:17, 35:2, 35:19, 35:23, 35:26, 35:29, 36:3, 36:7, 36:9, 39:22, 45:9, 46:27, 63:22, 67:12, 67:22, 68:20, 68:21, 78:14, 96:5, 105:22 great [2] - 22:15, 92:16 grievance [3] - 47:22, 47:23, 47:24 GSOC [1] - 67:6 Guard [3] - 100:25, 101:4, 101:19 guards [1] - 12:12 guess [1] - 23:19 guided [2] - 42:3, 42:9 guilty [1] - 48:13	21:3, 21:29 handwritten [17] - 10:9, 15:13, 39:17, 39:23, 39:25, 59:11, 61:4, 62:17, 62:19, 62:21, 62:26, 63:1, 98:4, 101:12, 101:18, 101:27 hanging [2] - 104:20, 104:21 happy [19] - 20:3, 21:3, 23:17, 27:23, 46:19, 55:18, 69:20, 77:8, 80:22, 80:26, 80:29, 91:27, 91:29, 92:3, 92:5, 92:6, 94:13, 104:11, 105:13 harassed [4] - 18:14, 18:15, 18:21, 95:10 harassment [1] - 51:12 hard [1] - 48:12 hardcopy [1] - 100:9 harkin [1] - 80:16 Harkin [5] - 23:6, 40:18, 70:10, 81:20, 92:28 harsh [1] - 47:26 HAVING [5] - 22:28, 40:13, 70:6, 81:16, 92:23 head [2] - 14:16, 31:23 Head [1] - 71:9 health [4] - 64:21, 65:10, 65:21, 95:8 hear [32] - 10:1, 13:7, 18:21, 20:9, 21:3, 21:10, 21:25, 22:4, 22:6, 22:13, 22:21, 23:17, 27:13, 32:18, 32:19, 35:21, 36:27, 36:28, 36:29, 38:24, 40:2, 40:3, 40:4, 69:25, 69:27, 81:7, 82:1, 92:10, 92:14, 100:23, 105:13
--	---	--	--	---	--

heard [9] - 13:19, 13:22, 15:18, 17:23, 18:27, 21:24, 55:20, 71:16, 84:17 hearing [11] - 9:4, 9:6, 9:17, 9:28, 10:18, 10:21, 14:22, 20:27, 34:1, 56:1, 70:19 HEARING [3] - 6:1, 19:9, 106:6 hears [1] - 12:23 held [5] - 57:2, 71:16, 72:20, 78:13, 96:25 help [4] - 21:23, 27:23, 49:19, 59:13 helpful [13] - 11:21, 19:4, 39:3, 39:4, 55:18, 55:25, 67:29, 68:7, 80:14, 90:22, 102:7, 103:10, 105:12 hence [1] - 56:25 here' [1] - 14:13 hi [3] - 30:21, 56:7, 86:6 Hi [3] - 22:9, 30:10, 77:12 higher [2] - 28:21, 82:28 highlighted [1] - 76:13 historic [1] - 73:23 hit [5] - 60:8, 60:13, 60:16, 60:27 hmm [3] - 22:23, 29:26, 42:26 Hobbs [15] - 27:10, 27:13, 29:28, 30:7, 38:14, 38:24, 80:23, 81:6, 81:19, 82:13, 84:11, 85:7, 85:26, 89:16, 90:20 HOBBS [4] - 4:8, 81:8, 81:13, 81:16 hold [4] - 76:23, 76:25, 76:26,	82:14 holy [7] - 22:18, 22:24, 40:9, 70:1, 81:11, 92:18, 92:20 home [2] - 18:8 honest [2] - 18:1, 18:11 hope [4] - 21:21, 39:3, 93:24, 104:6 Hospital [4] - 94:21, 95:10, 95:12, 102:29 hospital [8] - 87:19, 87:23, 88:9, 88:11, 88:12, 88:14, 88:28, 94:25 hospitals [4] - 88:3, 88:19, 88:22, 88:25 hour [1] - 29:21 hours [7] - 25:20, 28:25, 29:7, 71:25, 76:9, 84:1, 84:6 HSE [2] - 87:23, 88:9 hugh [2] - 16:17, 41:11 Hugh [2] - 16:19, 16:20	9:8, 9:20, 17:27, 17:28, 18:2, 19:1, 20:1, 20:3, 20:20, 20:26 inadvertent [2] - 6:22, 55:10 inadvertently [1] - 6:17 incident [1] - 61:22 incidents [1] - 64:12 include [4] - 23:8, 40:20, 64:12, 70:12 including [1] - 6:10 incomplete [1] - 63:25 inconvenience [10] - 23:16, 39:1, 41:4, 41:7, 69:12, 70:18, 80:15, 81:29, 90:28, 102:17 indeed [2] - 11:25, 52:1 independently [1] - 66:5 INDEX [1] - 3:1 indicated [2] - 85:19, 85:24 Individual [1] - 73:24 individual [9] - 45:7, 61:26, 74:29, 78:20, 79:4, 87:14, 87:15, 88:19, 89:19 individuals [3] - 15:5, 61:15, 62:13 inference [1] - 21:7 inform [1] - 87:28 information [13] - 26:5, 28:10, 39:3, 56:25, 57:3, 57:6, 57:11, 65:27, 66:28, 75:8, 79:24, 85:16, 99:6 informed [11] - 34:17, 34:18, 45:8, 51:14, 51:27, 51:29, 52:3, 53:23, 62:10, 68:12,	77:14 initial [3] - 45:2, 50:27, 50:28 innocence [1] - 63:26 input [2] - 89:17, 90:18 inputting [1] - 46:1 inquiry [31] - 6:5, 6:7, 6:14, 6:19, 6:21, 7:21, 9:8, 9:20, 15:28, 16:3, 16:24, 17:5, 17:15, 17:17, 17:26, 17:28, 18:2, 18:23, 18:24, 18:25, 18:29, 20:2, 20:26, 23:6, 40:19, 41:6, 69:13, 70:10, 78:23, 85:8 Inquiry [5] - 81:20, 91:10, 92:29, 105:15, 105:20 inside [1] - 83:6 insofar [1] - 50:24 instance [2] - 31:10, 56:29 instigated [1] - 85:4 Institute [1] - 25:7 institutes [1] - 25:3 instruction [1] - 35:2 instructions [1] - 8:4 integrity [1] - 15:19 intending [1] - 15:3 intends [1] - 13:18 intent [1] - 12:9 intention [1] - 18:23 interact [1] - 33:17 interactions [1] - 41:20 interest [7] - 14:21, 14:23, 18:5, 65:13, 79:7, 104:25, 105:14 interests [1] -	105:16 intern [1] - 94:21 internal [2] - 29:9, 87:20 international [1] - 65:6 internet [2] - 54:27, 100:22 interpretation [1] - 35:7 interrupt [2] - 28:17, 54:23 interrupted [1] - 77:27 intervene [1] - 67:9 interview [5] - 15:13, 50:21, 60:2, 96:6, 96:15 intimidated [1] - 95:10 intimidating [1] - 94:28 introduce [3] - 67:8, 67:14, 92:27 introductory [1] - 45:17 intrude [1] - 80:28 investigate [1] - 62:9 investigated [4] - 63:25, 64:5, 64:10, 66:5 investigating [3] - 61:18, 62:7, 62:14 investigation [5] - 53:22, 66:3, 99:20, 99:24, 102:4 invite [4] - 7:4, 47:9, 58:18, 58:21 invited [6] - 45:8, 45:11, 51:28, 52:6, 53:12, 95:17 inviting [1] - 90:15 involved [3] - 49:13, 62:2, 62:3 involving [1] - 41:20 Ireland [12] - 18:5, 24:6, 32:28, 32:29, 33:7, 53:9, 57:28, 65:8, 65:12, 82:21,	83:5, 83:6 Irish [3] - 28:21, 65:8, 86:10 isolated [2] - 95:1, 95:3 issue [4] - 12:25, 14:5, 15:16, 68:9 issued [4] - 28:5, 29:8, 29:13, 75:11 issues [1] - 87:10 item [4] - 73:24, 74:3, 74:18, 74:29 itself [3] - 12:14, 25:2, 43:1
J					
January [9] - 51:3, 53:9, 58:14, 77:15, 77:23, 77:29, 91:12, 94:20, 95:11 job [2] - 95:2, 105:25 joined [1] - 87:13 July [13] - 45:22, 53:22, 53:24, 54:5, 74:15, 74:24, 75:10, 75:16, 75:18, 75:26, 76:16, 95:9, 95:12 June [2] - 74:13, 75:1 jurisdiction [1] - 83:12 justify [1] - 21:14					
K					
Kavanagh [17] - 69:21, 69:24, 70:9, 71:4, 72:15, 76:27, 77:22, 77:24, 77:28, 78:6, 79:2, 79:9, 79:20, 79:22, 80:4, 80:13, 84:18 KAVANAGH [3] - 4:2, 69:27, 70:6 Kavanagh's [1] - 77:2 keep [10] - 16:1,					

24:19, 24:22, 49:14, 53:21, 59:20, 69:21, 88:29, 91:29, 99:25 Kelly [1] - 102:28 Kendlin [12] - 27:10, 27:13, 29:28, 30:7, 38:24, 80:23, 81:19, 82:13, 84:11, 85:7, 85:26, 89:16 KENDLIN [2] - 4:8, 81:16 kept [1] - 73:11 KEVIN [4] - 3:19, 3:24, 40:13, 43:8 Kevin [4] - 15:4, 15:7, 39:15, 39:16 kind [2] - 28:9, 47:28 kindly [1] - 87:19 knowledge [2] - 76:20, 82:4 knows [1] - 15:25	52:2, 95:9, 95:24, 102:25 legal [24] - 7:16, 7:19, 9:26, 10:20, 19:16, 20:15, 20:19, 21:15, 21:22, 23:11, 32:3, 40:24, 58:20, 58:23, 77:3, 77:6, 81:25, 93:5, 93:20, 102:15, 103:12, 103:15, 103:16, 104:6 LEGAL [9] - 3:6, 3:22, 12:5, 12:7, 42:18, 42:20, 42:27, 55:6, 55:8 length [1] - 103:7 less [1] - 83:6 letter [5] - 72:16, 72:19, 72:22, 74:4, 74:5 letters [1] - 76:13 level [1] - 50:7 Liaison [2] - 54:9, 56:12 lie [1] - 36:6 light [5] - 8:29, 12:8, 12:22, 91:8, 91:22 likely [2] - 10:24, 12:21 likewise [2] - 69:8, 80:12 limb [1] - 11:12 limit [2] - 16:3, 103:9 line [1] - 90:12 listed [1] - 29:18 live [1] - 18:16 locating [1] - 56:8 lockdown [1] - 83:22 logged [1] - 22:7 logging [2] - 25:23, 25:25 logical [1] - 45:5 look [6] - 20:5, 24:16, 44:13, 44:28, 56:17, 56:21 looking [4] - 10:10, 45:17, 55:26, 61:3 looks [2] - 22:7, 32:13	lose [1] - 90:4 lost [1] - 32:10 Ltd [1] - 94:19 lunch [1] - 91:26	M	mail [23] - 15:11, 26:25, 27:6, 27:14, 27:26, 30:5, 31:3, 34:22, 39:23, 52:20, 54:1, 68:14, 72:29, 74:13, 74:14, 74:29, 75:16, 77:29, 84:23, 100:4, 100:6, 100:8, 100:9 mailed [2] - 31:7, 54:2 mails [4] - 73:25, 75:20, 84:14, 85:1 main [3] - 33:10, 51:25, 82:23 maintain [10] - 82:21, 82:29, 83:4, 83:7, 87:28, 88:10, 88:20, 89:21, 89:24, 90:4 maintained [2] - 82:25, 86:21 maintenance [3] - 78:27, 83:11, 89:26 majority [1] - 83:8 male [1] - 33:8 manage [4] - 87:16, 88:1, 88:6, 88:10 managed [1] - 26:8 manager [1] - 82:16 managing [1] - 24:14 mandatory [2] - 33:6, 87:1 mange [1] - 87:14 manipulate [2] - 16:4, 16:23 manipulating [1] - 16:19 manner [1] - 13:3	manuscript [2] - 101:2, 101:9 Marie [3] - 72:16, 72:17, 72:18 marriage [1] - 49:26 Mary [9] - 23:8, 40:21, 70:12, 70:13, 81:22, 93:2, 93:3 mary [1] - 81:23 material [1] - 25:23 matter [22] - 12:2, 12:20, 15:14, 21:12, 23:23, 38:25, 42:21, 51:14, 52:26, 53:4, 53:6, 53:16, 62:13, 70:22, 70:23, 82:4, 90:25, 93:11, 102:8, 104:12, 104:24, 105:3 matters [4] - 6:28, 17:15, 23:14, 66:4 Mayo [1] - 102:28 mcDOWELL [2] - 3:5, 7:28 McDowell [68] - 3:8, 3:14, 3:16, 3:21, 3:26, 4:4, 7:4, 7:26, 9:21, 9:24, 11:11, 11:25, 13:18, 14:26, 14:29, 16:17, 16:19, 16:20, 17:4, 17:11, 19:20, 19:25, 21:1, 21:20, 22:29, 23:21, 24:2, 24:4, 27:2, 32:1, 36:21, 36:22, 36:24, 36:26, 39:28, 40:14, 41:2, 41:11, 42:21, 42:27, 43:9, 54:22, 55:1, 56:3, 56:15, 59:1, 59:10, 61:7, 63:2, 69:1, 69:3, 69:23, 70:7, 70:29, 71:5, 77:13, 77:17, 77:20, 79:26, 81:4, 82:10, 89:5, 90:24, 93:23, 102:8, 104:10, 104:15, 105:11 MCDOWELL [42] - 4:10, 4:16, 8:1, 15:2, 15:7, 21:4, 21:8, 21:24, 22:1, 36:19, 39:13, 39:20, 39:25, 41:9, 43:11, 55:26, 55:29, 56:13, 56:18, 59:12, 61:3, 63:17, 69:20, 71:3, 78:6, 80:21, 81:5, 81:17, 82:13, 89:7, 90:26, 91:6, 91:21, 92:8, 92:24, 93:27, 98:13, 100:13, 102:9, 102:24, 103:6, 106:2 McDowell's [1] - 17:25 McGrath [1] - 52:27 McGuinness [13] - 11:29, 14:27, 19:17, 23:12, 40:23, 42:4, 42:14, 42:15, 55:7, 55:17, 70:15, 81:25, 93:5 Mcpartlan [42] - 3:19, 3:24, 15:4, 15:7, 15:20, 39:15, 39:17, 40:1, 40:3, 40:5, 40:8, 40:11, 40:13, 40:16, 41:9, 42:5, 43:8, 43:14, 44:7, 46:15, 51:2, 54:16, 56:22, 57:7, 58:16, 58:28, 59:7, 59:23, 61:8, 64:5, 64:10, 64:19, 67:12, 67:17, 67:26, 68:7, 68:11, 68:15, 68:19, 69:5, 69:9, 98:17 McPartlan's [1] - 58:19 me,I [1] - 16:18 mean [47] - 10:10, 10:11, 14:4, 14:9, 15:24, 15:26, 16:3, 16:22, 18:6, 18:11, 18:12, 18:17, 20:20, 31:5, 32:25, 33:2, 33:14, 33:15, 33:17, 34:21, 35:6, 36:6, 37:1, 49:10, 49:18, 61:2, 62:1, 64:29, 65:6, 68:2, 68:9, 76:21, 78:2, 80:21, 86:26, 88:12, 88:14, 97:15, 98:3, 98:6, 98:8, 103:6, 103:23, 105:5 means [1] - 55:15 Med [1] - 25:7 media [3] - 18:6, 18:7, 18:18 Medical [43] - 6:6, 6:9, 25:28, 27:10, 27:11, 28:11, 28:21, 30:7, 38:4, 38:9, 38:11, 38:12, 41:12, 53:5, 62:25, 62:27, 72:23, 73:10, 73:13, 78:10, 78:19, 78:21, 78:26, 79:26, 80:23, 82:16, 83:9, 83:10, 84:25, 85:12, 86:10, 87:4, 87:8, 87:11, 87:14, 87:21, 88:2, 88:5, 88:8, 89:19, 91:16, 98:9, 98:16 medical [25] - 6:11, 23:7, 24:25, 25:11, 25:19, 35:18, 35:23, 40:19, 40:22, 70:11, 70:13, 70:14, 71:20, 72:3, 72:7, 74:21, 75:21, 81:21, 81:23, 81:24, 82:18, 92:29, 93:2, 93:3, 94:20 medication [1] - 95:14 Medicine [1] - 25:7
L	labour [1] - 15:25 laid [1] - 28:8 language [7] - 16:18, 17:2, 49:9, 63:12, 63:14, 95:6, 98:24 language" [1] - 98:27 last [13] - 29:6, 44:1, 47:2, 48:6, 53:7, 56:1, 56:15, 59:15, 71:11, 75:3, 91:21, 91:27, 95:21 late [1] - 94:23 learning [2] - 29:9, 87:3 learnings [1] - 88:7 least [1] - 15:20 leave [3] - 47:3, 48:15, 96:18 Lee [3] - 14:9, 36:9, 103:2 left [5] - 12:25,				

meet [7] - 20:18, 35:17, 51:16, 51:22, 52:2, 53:15, 95:15 meeting [2] - 7:23, 103:22 member [4] - 33:4, 41:13, 51:8, 87:6 members [5] - 23:7, 40:20, 55:19, 70:11, 100:14 memo [9] - 45:11, 45:18, 46:6, 50:16, 52:8, 52:9, 52:10, 52:12, 52:29 memory [1] - 45:24 mental [1] - 95:8 mention [1] - 42:2 mentioned [7] - 15:14, 15:15, 26:3, 74:6, 86:27, 102:13, 103:29 mentions [1] - 55:10 message [5] - 49:5, 95:13, 95:17, 98:23, 98:26 messages [15] - 48:26, 53:13, 53:29, 54:5, 54:6, 63:12, 63:13, 65:9, 65:11, 65:20, 68:12, 95:6, 95:19, 95:20, 99:3 met [4] - 33:29, 52:27, 59:25, 98:18 met' [1] - 29:5 mic [1] - 22:8 microphone [5] - 22:5, 23:28, 23:29, 69:26, 92:11 middle [1] - 22:10 might [20] - 6:18, 7:18, 8:20, 17:24, 21:6, 22:3, 28:8, 31:28, 31:29, 54:19, 54:23, 55:1, 55:8, 58:16, 69:25, 76:27, 77:26,	79:10, 92:11, 104:22 mildly [1] - 37:18 Mill [2] - 41:14, 65:4 mind [2] - 74:20, 75:4 mindful [4] - 11:29, 12:15, 13:1, 105:21 mine [2] - 62:22, 72:18 minimise [1] - 79:10 minimum [1] - 89:20 minorities [1] - 18:16 misconduct [1] - 6:8 missed [2] - 37:18, 95:12 missing [6] - 31:21, 64:11, 97:16, 99:8, 99:11, 99:12 misunderstand [1] - 47:25 mobile [3] - 57:8, 57:19, 68:4 moment [11] - 26:27, 27:3, 32:9, 41:29, 55:3, 67:3, 77:7, 77:20, 93:21, 96:13, 100:25 money [2] - 16:25, 16:27 months [3] - 49:25, 53:16, 71:11 morning [17] - 6:4, 6:25, 7:4, 9:2, 22:3, 23:2, 27:17, 40:1, 40:3, 40:16, 40:17, 41:9, 41:10, 59:23, 59:24, 103:29, 105:21 most [4] - 16:11, 21:14, 28:7, 28:13 mouse [1] - 26:14 move [1] - 91:6 moving [1] - 15:27 MR [94] - 3:5, 3:8, 3:14, 3:16,	3:21, 3:26, 4:4, 4:8, 4:10, 4:16, 7:28, 8:1, 14:29, 15:2, 15:7, 21:4, 21:8, 21:20, 21:24, 22:1, 22:3, 22:12, 22:15, 22:18, 22:21, 22:24, 22:29, 24:4, 27:2, 32:13, 36:19, 36:22, 36:24, 36:26, 39:13, 39:20, 39:25, 39:28, 40:1, 40:4, 40:6, 40:9, 40:14, 41:9, 43:9, 43:11, 55:1, 55:26, 55:29, 56:3, 56:11, 56:13, 56:14, 56:15, 56:18, 59:12, 61:3, 61:7, 63:17, 69:3, 69:20, 69:23, 69:24, 69:27, 69:28, 70:3, 70:7, 71:3, 78:6, 80:21, 81:5, 81:6, 81:8, 81:9, 81:13, 81:16, 81:17, 82:13, 89:7, 90:26, 91:6, 91:21, 92:8, 92:9, 92:14, 92:16, 92:24, 93:27, 98:13, 100:13, 102:9, 102:24, 103:6, 106:2 MS [31] - 3:12, 11:27, 22:9, 22:14, 22:17, 22:20, 22:23, 22:26, 22:28, 26:28, 32:23, 36:17, 36:24, 37:26, 37:29, 38:3, 38:15, 54:22, 54:29, 56:7, 56:17, 69:7, 81:2, 92:6, 100:24, 101:2, 101:6, 101:8, 101:13, 101:15, 101:19 multiple [1] - 17:6 Munroe's [1] - 51:16 MURRAY [21] - 22:3, 22:12, 22:15, 22:18,	22:21, 22:24, 32:13, 40:1, 40:4, 40:6, 40:9, 56:11, 56:14, 69:24, 69:28, 70:3, 81:6, 81:9, 92:9, 92:14, 92:16 must [2] - 21:16, 97:19 mute [3] - 21:6, 23:29, 54:28 muted [2] - 22:8, 55:3 Maire [1] - 52:27	newsletter [5] - 73:24, 74:3, 74:7, 74:9, 74:18 next [11] - 14:22, 27:29, 35:14, 35:27, 39:14, 58:4, 69:21, 74:2, 80:21, 91:7, 97:11 nice [2] - 67:26, 68:9 nightmare [1] - 14:3 no [1] - 90:8 no' [1] - 38:21 non [1] - 91:11 non-compliance [1] - 91:11 none [2] - 87:20, 88:25 NOONAN [5] - 4:14, 92:13, 92:15, 92:20, 92:23 Noonan [15] - 15:4, 15:8, 52:22, 91:23, 92:8, 92:9, 92:26, 93:27, 94:10, 94:12, 96:22, 97:23, 100:13, 101:22, 102:12 Noonan's [1] - 61:4 normal [7] - 49:14, 61:11, 61:18, 61:19, 61:27, 62:8, 62:15 normally [1] - 47:6 note [4] - 20:10, 61:4, 66:2, 73:21 noted [2] - 16:10, 17:3 notes [2] - 15:13, 66:3 nothing [5] - 11:27, 63:18, 99:5, 99:7, 104:19 notice [3] - 23:27, 29:23, 55:2 Notice [1] - 91:9 number [54] - 25:19, 28:11, 41:6, 46:25, 47:14, 47:16,	48:27, 49:3, 49:4, 49:7, 49:11, 49:15, 51:15, 51:24, 51:26, 52:20, 53:3, 54:11, 56:29, 57:1, 57:15, 57:18, 57:19, 58:5, 60:28, 60:29, 61:1, 61:10, 61:12, 61:14, 61:16, 61:22, 61:24, 61:26, 61:28, 61:29, 62:6, 63:3, 63:4, 63:7, 63:8, 64:14, 64:15, 64:23, 65:8, 71:25, 82:2, 89:25, 97:9, 97:13, 97:20 numbers [6] - 47:18, 49:6, 49:10, 57:1, 57:4, 57:6 nutshell [1] - 24:24
					O
					O'Boyle [4] - 72:16, 72:17, 84:15, 84:26 o'clock [1] - 7:18 O'NEILL [3] - 26:28, 56:7, 56:17 objection [1] - 54:24 objections [5] - 18:28, 20:10, 20:28, 54:27 objective [1] - 9:8 obligation [13] - 38:7, 72:3, 86:16, 87:22, 88:9, 88:12, 88:28, 89:21, 90:1, 90:8, 90:9 obligations [6] - 29:17, 37:5, 73:12, 82:18, 85:9, 85:14 obliged [1] - 89:19 observing [1] - 55:12 Obstetricians

[1] - 25:8 obtained [1] - 53:28 obtaining [1] - 94:4 obviously [16] - 8:14, 8:23, 12:7, 12:29, 19:28, 42:23, 42:27, 43:3, 46:1, 55:9, 55:11, 91:27, 103:6, 104:13, 104:15, 105:8 Oc [1] - 25:7 occasions [2] - 17:6, 82:2 occurred [1] - 95:11 OCTOBER [1] - 6:1 October [7] - 27:7, 30:5, 44:5, 44:20, 54:3, 54:8, 72:16 OF [2] - 3:10, 19:12 offer [2] - 38:29, 41:4 Office [1] - 51:10 office [4] - 51:11, 64:28, 65:1, 65:3 often [1] - 28:13 old" [1] - 31:1 older [1] - 74:22 ON [1] - 6:1 once [13] - 11:12, 21:11, 32:1, 38:28, 48:29, 68:18, 69:11, 70:28, 80:5, 80:13, 82:9, 83:20, 90:27 one [56] - 11:1, 13:6, 13:18, 16:23, 16:27, 19:26, 21:25, 22:19, 22:25, 24:15, 24:29, 25:7, 25:8, 25:12, 28:22, 28:24, 29:6, 29:21, 30:12, 31:11, 31:21, 33:1, 33:20, 34:28, 36:19, 37:18, 38:14, 39:23, 40:10, 57:5, 62:8, 62:14, 68:1, 68:13, 70:1, 70:3,	81:11, 82:26, 83:28, 83:29, 84:6, 86:27, 87:18, 89:10, 89:18, 89:28, 92:18, 93:8, 98:5, 101:7, 103:23, 103:29 ongoing [1] - 53:6 online [1] - 105:6 open [7] - 20:27, 26:11, 26:12, 29:27, 33:3, 68:4 opened [5] - 30:1, 41:26, 55:28, 56:4, 103:29 operated [6] - 26:9, 71:14, 72:8, 75:23, 76:2, 82:26 operative [1] - 26:19 opportunity [15] - 20:15, 35:24, 35:27, 36:1, 36:4, 36:8, 36:10, 37:10, 38:28, 67:15, 68:29, 77:4, 77:19, 103:19, 105:22 opposed [1] - 35:6 order [8] - 29:5, 54:8, 55:13, 55:19, 72:2, 73:12, 83:9, 89:21 ordered [2] - 6:19, 55:20 originally [1] - 28:7 otherwise [2] - 78:25, 90:4 outer [1] - 103:8 outlined [4] - 11:25, 11:26, 45:3, 79:26 outset [1] - 102:14 outside [3] - 34:1, 55:15, 83:4 overnight [1] - 20:14 Overseas [1] - 83:10 own [6] - 10:21, 46:17, 67:10,	88:20, 94:19, 104:15 P page [47] - 26:20, 26:22, 26:24, 26:26, 27:3, 27:29, 28:1, 28:28, 30:4, 43:12, 43:14, 43:17, 43:24, 43:25, 44:1, 44:13, 44:26, 51:1, 52:12, 56:20, 57:12, 57:13, 57:17, 58:4, 63:4, 63:7, 63:8, 63:9, 64:7, 74:2, 74:28, 75:15, 84:11, 84:28, 94:8, 96:27, 97:9, 97:11, 97:13, 98:3, 99:11, 99:12, 101:24 PAGE [1] - 3:2 pages [11] - 44:16, 63:21, 63:22, 63:24, 64:11, 84:29, 85:1, 97:16, 97:17, 102:2 paid [3] - 16:25, 31:9, 73:7 Pakistan [6] - 18:5, 18:8, 18:14, 49:23, 53:8, 54:3 paper [6] - 33:1, 33:24, 33:26, 33:28, 34:5, 34:6 paragraph [4] - 45:17, 75:3, 75:16, 91:9 paragraphs [1] - 74:17 pardon [2] - 60:15, 61:2 Part [1] - 6:5 part [8] - 6:11, 43:4, 44:23, 53:18, 71:24, 85:8, 85:21, 89:23 participant [1] - 33:16 participants [1] - 33:8 Participation [2] - 73:16, 73:28	participation [7] - 30:16, 33:5, 33:11, 33:12, 84:27, 85:17, 90:29 particular [6] - 29:17, 31:18, 56:8, 56:29, 62:21, 73:26 particularly [2] - 8:10, 91:22 parties [7] - 6:19, 6:25, 13:7, 17:23, 19:16, 20:2, 105:19 partner [1] - 16:26 party [1] - 7:7 passing [1] - 96:12 past [5] - 10:28, 47:19, 47:25, 49:21, 51:20 pathology [1] - 25:8 patience [1] - 19:15 Paul [5] - 23:5, 40:18, 70:10, 81:20, 92:28 PCS [13] - 33:11, 33:13, 73:7, 73:8, 73:10, 73:11, 73:16, 73:23, 73:24, 74:20, 74:22, 74:23, 75:7 PDF [1] - 28:5 Pediatrics [1] - 25:8 people [15] - 18:6, 18:7, 24:18, 24:22, 33:22, 33:28, 34:9, 37:7, 37:18, 48:2, 60:1, 60:21, 62:9, 68:15, 74:10 per [4] - 25:20, 35:6, 35:7, 90:6 perceived [1] - 33:11 percent [2] - 33:21, 34:3 perfect [4] - 26:17, 92:15, 102:10 perfectly [2] - 63:29, 78:23 performance [1] - 6:8	perhaps [4] - 12:11, 19:25, 32:11, 38:13 period [13] - 27:20, 28:24, 29:24, 30:14, 30:15, 35:3, 35:4, 35:29, 73:11, 78:14, 83:22, 85:24, 94:2 periods [1] - 85:15 permanent [1] - 46:3 person [37] - 9:7, 9:8, 9:20, 9:27, 17:27, 17:28, 18:2, 18:24, 18:29, 19:1, 20:1, 20:3, 20:20, 20:26, 28:18, 31:9, 33:27, 33:29, 34:8, 34:10, 38:14, 44:8, 45:6, 48:6, 52:14, 56:27, 60:4, 60:24, 60:25, 61:17, 71:16, 75:25, 104:11, 105:6, 105:12 personal [4] - 29:9, 74:13, 75:5, 87:2 personalised [1] - 74:14 personally [1] - 94:27 perspective [2] - 9:25, 10:25 pertain [1] - 45:13 pertaining [3] - 57:3, 61:14, 62:23 pertinent [1] - 44:11 pestering [1] - 49:28 phone [20] - 44:9, 46:25, 46:27, 47:1, 47:2, 47:5, 47:12, 49:1, 50:8, 53:3, 53:12, 54:11, 56:29, 57:9, 64:24, 65:5, 65:14, 66:9, 66:13, 66:18 phones [1] - 47:11	physical [1] - 95:3 physicians [1] - 24:5 Physicians [1] - 71:17 picture [3] - 31:23, 64:16, 100:26 PID [3] - 61:10, 61:16, 61:24 pin [1] - 63:4 place [2] - 9:6, 34:25 platform [1] - 52:14 play [1] - 44:23 plus [3] - 30:24, 73:11, 74:7 point [40] - 9:5, 11:6, 15:24, 15:26, 15:29, 16:5, 16:6, 16:29, 17:24, 19:18, 21:11, 24:13, 24:16, 42:15, 45:2, 58:27, 59:1, 63:27, 63:28, 64:1, 64:16, 67:9, 67:13, 68:11, 68:17, 68:18, 70:21, 74:8, 76:12, 78:22, 78:23, 78:24, 79:8, 80:22, 86:17, 89:28, 90:13, 93:16, 105:2 pointing [1] - 40:26 points [8] - 17:18, 35:3, 35:28, 36:4, 36:6, 36:8, 42:28, 93:8 policies [1] - 88:21 policy [9] - 34:8, 34:11, 34:20, 34:22, 34:23, 34:25, 35:15, 85:21 poor [1] - 6:8 popped [1] - 22:10 portfolio [2] - 31:8, 74:22 position [20] - 8:6, 11:1, 11:25, 12:17, 17:21, 17:25, 18:26,
--	---	--	--	--	---

21:11, 21:17, 21:22, 43:19, 71:12, 71:17, 71:18, 71:19, 76:18, 78:28, 82:14, 82:15, 102:27 possession [1] - 46:29 possibility [4] - 45:10, 80:4, 93:19, 102:14 possible [11] - 8:5, 9:3, 13:5, 13:22, 17:10, 26:21, 26:23, 30:12, 39:16, 104:7, 104:29 possibly [1] - 19:23 postgraduate [2] - 82:27, 87:16 postpone [1] - 16:2 potentially [1] - 35:8 POWER [8] - 11:28, 69:6, 80:11, 80:29, 89:10, 89:16, 92:5, 100:18 power [1] - 104:28 Power [6] - 23:8, 40:21, 40:22, 70:12, 81:22, 93:2 Power's [1] - 91:8 practical [1] - 77:25 Practice [1] - 83:10 practice [10] - 28:13, 34:12, 37:22, 61:11, 61:18, 61:19, 61:27, 62:8, 62:15, 94:20 practise [1] - 6:5 practising [4] - 82:22, 83:3, 83:5, 83:13 practitioner [20] - 6:12, 23:7, 24:26, 25:11, 25:19, 35:18, 35:23, 40:20, 40:22, 70:11, 70:13, 70:14, 72:7, 81:21, 81:23, 81:24, 82:19, 93:1, 93:2, 93:4 practitioners [5] - 71:20, 72:3, 74:21, 75:1, 75:21 Practitioners [3] - 6:6, 6:9, 73:13 predict [1] - 103:7 preference [3] - 18:28, 21:24, 105:9 prejudice [5] - 8:16, 8:17, 12:17, 12:21, 14:14 prejudicial [1] - 13:3 preliminary [1] - 7:23 prepare [1] - 20:17 prepared [2] - 53:16, 65:26 presence [2] - 43:27, 46:15 present [1] - 7:15 presentation [1] - 42:22 presented [4] - 10:9, 39:26, 44:3, 44:18 presenting [1] - 50:24 presuming [1] - 101:10 prevented [1] - 34:19 previous [7] - 10:9, 14:6, 30:24, 35:24, 73:12, 87:13, 96:5 previously [7] - 12:15, 13:2, 18:7, 41:25, 51:19, 55:19, 84:6 primary [1] - 16:22 primed [1] - 82:2 private [1] - 19:6 privy [1] - 62:10 problem [4] - 22:12, 32:17, 81:2, 91:1 problems [1] - 54:27 procedures [1] -	57:10 proceed [9] - 8:26, 10:1, 10:22, 11:11, 17:6, 19:27, 21:16, 103:12, 104:7 proceeding [6] - 6:14, 8:9, 8:16, 12:26, 21:15, 93:18 proceedings [3] - 20:13, 103:14 proceeds [3] - 17:17, 18:24, 21:13 process [6] - 12:13, 12:15, 17:3, 17:21, 21:23, 74:15 produce [1] - 77:14 produced [1] - 64:2 production [1] - 13:21 productive [1] - 19:23 Professional [3] - 30:24, 73:5, 75:5 professional [32] - 6:7, 6:8, 17:11, 24:8, 25:4, 29:17, 31:19, 33:6, 33:18, 35:15, 71:9, 71:13, 71:21, 72:8, 75:22, 76:2, 82:15, 82:21, 82:24, 82:26, 83:1, 83:7, 83:12, 86:12, 86:21, 87:17, 88:1, 89:24, 89:26, 90:2, 90:10, 95:1 programme [2] - 47:9, 86:24 programmes [1] - 82:29 progress [7] - 9:2, 13:12, 19:19, 92:4, 93:22, 104:1, 105:21 progressive [1] - 7:3 proofing [2] - 8:18, 65:25 proper [2] - 57:10, 94:24 properly [1] -	56:4 propose [1] - 91:23 protect [1] - 100:26 protection [3] - 64:8, 66:11, 66:13 Protection [2] - 96:21, 96:24 prove [5] - 8:12, 8:13, 8:19, 42:7, 99:14 proven [1] - 9:16 provide [15] - 31:3, 42:29, 52:17, 63:26, 72:4, 72:9, 73:15, 79:14, 79:15, 79:24, 79:27, 83:9, 88:16, 88:25, 103:19 provided [5] - 29:16, 62:23, 64:6, 82:22, 84:9 providers [1] - 57:9 providing [2] - 87:24, 88:15 proving [2] - 10:1, 42:6 provision [1] - 6:10 Pub [1] - 51:16 public [7] - 6:14, 16:25, 18:25, 55:11, 55:12, 55:20, 56:9 Public [1] - 51:10 publication [1] - 90:3 PULSE [4] - 61:22, 61:23, 61:25, 62:6 purpose [3] - 83:14, 90:16, 90:17 purposes [2] - 55:26, 93:21 purposively [1] - 95:7 pursued [1] - 99:14 put [15] - 15:18, 18:6, 18:7, 34:24, 37:1, 41:28, 49:5, 59:10, 61:12, 72:14, 79:9, 79:10, 94:7,	97:20, 101:3 putting [2] - 18:17, 68:10	Q queries [1] - 31:3 question/ answer [1] - 45:16 QUESTIONED [8] - 3:17, 4:6, 4:12, 4:18, 37:29, 79:18, 89:14, 100:29 questioned [1] - 60:20 questioning [2] - 39:19, 67:11 questionnaire [1] - 33:13 questions [51] - 9:25, 11:24, 27:23, 31:26, 31:28, 31:29, 32:4, 32:8, 32:9, 32:21, 36:11, 36:15, 36:17, 38:25, 58:17, 58:22, 58:28, 58:29, 59:26, 63:18, 67:21, 68:20, 68:21, 69:1, 69:5, 69:6, 69:7, 69:9, 76:28, 77:2, 77:5, 77:8, 80:9, 80:12, 85:27, 86:8, 86:23, 89:4, 89:6, 89:9, 90:15, 90:17, 90:20, 97:24, 97:26, 100:14, 100:15, 100:17, 100:18, 100:20 quickly [1] - 46:8 quite [2] - 96:8, 102:6	R raise [5] - 59:26, 63:27, 64:17, 67:13, 68:11 raised [3] - 15:12, 55:29, 59:2 range [1] - 33:12	rate [2] - 37:12, 37:15 rates [1] - 37:3 rather [3] - 19:24, 79:5, 79:8 RCPI [18] - 24:14, 24:29, 25:2, 25:3, 25:14, 25:23, 26:9, 28:18, 34:8, 34:11, 34:23, 37:4, 82:27, 85:2, 85:17, 85:23, 87:1, 87:5 RCPI- registered [1] - 37:4 RCSI [23] - 71:10, 71:14, 72:9, 72:10, 72:20, 73:4, 73:9, 74:20, 75:5, 75:23, 76:1, 76:2, 76:10, 76:15, 78:14, 78:15, 78:28, 79:15, 84:15, 84:19, 84:21, 85:17, 85:18 RE [2] - 3:16, 36:24 re [2] - 36:20, 55:18 re-emphasise [1] - 55:18 re-examination [1] - 36:20 RE-EXAMINED [2] - 3:16, 36:24 reach [2] - 29:6, 53:2 reaches [1] - 74:8 read [13] - 42:5, 42:10, 42:16, 43:2, 46:8, 50:16, 51:5, 54:13, 72:22, 90:8, 94:16, 95:26, 98:3 reading [2] - 43:17, 63:15 ready [1] - 80:24 really [5] - 19:4, 21:13, 37:21, 88:18, 99:1 reapply [1] - 90:21 reason [5] - 10:8, 18:4, 48:2,
---	--	---	--	--	--	---

78:18, 86:25 reasonable [2] - 78:3, 78:9 reasonableness s [1] - 78:25 reasons [4] - 7:1, 8:2, 104:1 recalled [3] - 8:25, 80:5, 103:20 receive [6] - 34:22, 66:6, 68:6, 99:6, 99:13, 99:17 received [15] - 51:15, 51:19, 53:3, 53:19, 53:23, 54:4, 54:5, 54:8, 62:25, 62:27, 65:9, 77:29, 85:12, 98:15, 100:3 receiving [2] - 63:23, 64:12 recent [1] - 16:11 recently [1] - 63:15 RECESS [1] - 19:9 recipients [1] - 75:17 recognise [1] - 61:23 recognising [1] - 9:22 recollect [1] - 47:29 recollection [3] - 44:29, 47:19, 64:23 reconcile [1] - 48:14 record [54] - 7:15, 7:19, 14:11, 15:12, 17:1, 26:3, 31:8, 34:12, 34:20, 34:24, 35:26, 37:9, 37:11, 42:16, 43:2, 46:10, 50:21, 51:6, 63:24, 66:9, 66:10, 66:17, 66:27, 67:1, 67:3, 76:6, 76:20, 76:22, 77:23, 86:18, 87:1, 87:19, 87:20, 88:11, 88:16,	88:17, 88:25, 88:29, 89:20, 94:16, 96:11, 98:6, 98:9, 99:9, 99:13, 99:25, 99:26, 99:27, 99:29, 100:1, 100:2, 103:24 recorded [9] - 29:22, 34:14, 65:29, 66:14, 66:19, 66:21, 66:22, 66:24, 67:18 recording [3] - 28:12, 43:4, 55:23 records [27] - 8:13, 66:1, 73:10, 73:23, 73:25, 74:10, 74:21, 74:23, 75:11, 76:1, 76:5, 76:8, 76:23, 76:25, 76:26, 78:13, 78:15, 78:27, 79:23, 85:20, 85:21, 87:15, 87:29, 88:5, 88:6, 88:20, 88:23 reduction [1] - 29:12 refer [7] - 23:24, 40:28, 60:19, 82:6, 87:10, 93:10, 96:4 reference [4] - 22:7, 67:23, 70:25, 93:13 referenced [2] - 6:18, 93:12 referred [3] - 52:18, 85:18, 87:15 referring [6] - 33:24, 39:21, 60:10, 61:13, 64:2, 66:12 reflect [1] - 101:3 reflection [1] - 95:29 refrain [1] - 67:22 regard [2] - 8:6, 13:19 Regarding [1] - 30:29 regarding [9] - 10:27, 63:12,	63:13, 72:24, 85:16, 95:6, 98:23, 98:26, 99:3 regards [2] - 82:19, 102:27 register [8] - 28:25, 33:9, 33:22, 34:3, 38:7, 90:2, 90:6, 90:10 registered [17] - 6:11, 24:25, 25:11, 25:18, 37:4, 54:10, 68:16, 71:19, 72:3, 72:7, 74:21, 76:1, 82:18, 82:20, 86:10, 86:12, 89:18 registering [2] - 38:4, 90:11 registrant [10] - 6:16, 23:23, 23:25, 31:18, 40:27, 70:23, 70:25, 82:4, 87:24, 93:9 registrants [1] - 88:4 registration [9] - 38:13, 83:5, 83:18, 84:18, 87:7, 89:22, 89:23, 90:5, 91:16 regularly [1] - 24:22 regulated [1] - 88:15 regulation [1] - 6:10 reject [2] - 17:9, 19:17 relate [2] - 17:16, 67:21 related [1] - 77:21 relates [3] - 11:16, 79:21, 91:10 relating [2] - 13:20, 33:10 relation [14] - 12:12, 12:19, 12:25, 13:4, 15:28, 51:12, 51:14, 52:26, 52:29, 84:18, 84:21, 85:15, 91:15, 96:25	Relationship [1] - 49:25 relative [1] - 68:13 relay [1] - 56:25 released [1] - 11:18 relevant [7] - 13:23, 28:24, 30:23, 31:10, 57:3, 57:8, 72:4 relying [1] - 16:2 remaining [1] - 29:10 remains [1] - 69:9 remember [26] - 34:21, 34:23, 38:22, 48:7, 48:9, 48:12, 48:19, 48:20, 48:21, 56:3, 59:25, 60:4, 64:20, 64:22, 65:14, 65:18, 65:21, 65:22, 66:24, 66:26, 67:6, 98:2, 99:3, 100:6, 100:8 remind [4] - 17:14, 18:24, 23:22, 24:23 reminded [1] - 55:13 reminder [4] - 35:1, 55:18, 55:25, 75:10 remote [1] - 9:16 remotely [2] - 20:24, 105:10 renew [1] - 38:12 renewal [2] - 31:9, 38:10 renewed [1] - 31:11 repeat [5] - 8:3, 8:7, 27:1, 63:23, 68:19 repeated [1] - 87:29 rephrase [1] - 77:26 rephrased [1] - 98:14 replies [1] - 30:7 reply [2] - 95:16, 95:18 REPLY [2] - 3:5, 7:28 Report [1] -	56:12 reported [1] - 53:4 representation [4] - 12:9, 58:21, 58:23, 103:12 representative [2] - 10:20, 20:19 representative s [1] - 21:15 represented [4] - 9:22, 11:9, 93:17, 105:25 represents [1] - 101:16 request [12] - 11:24, 19:18, 20:25, 57:14, 58:4, 64:9, 65:23, 83:11, 84:26, 88:24, 96:21, 96:23 request" [1] - 59:16 requested [2] - 57:6, 85:16 requesting [2] - 75:4, 87:6 require [3] - 13:16, 56:25, 78:1 required [11] - 24:26, 25:11, 42:23, 71:20, 71:24, 73:7, 76:9, 82:21, 86:20, 87:28, 89:23 requirement [4] - 34:4, 35:27, 38:20, 87:2 requirements [8] - 29:13, 34:1, 35:17, 83:19, 83:21, 83:26, 84:4, 89:20 requires [1] - 15:17 reschedule [1] - 21:12 rescheduling [1] - 17:26 research [3] - 33:1, 33:24, 34:6 reset [1] - 83:20 resist [1] - 8:4 resisting [1] - 8:1 resolve [1] - 48:24 respect [11] -	10:26, 11:24, 12:3, 17:18, 17:25, 20:1, 45:4, 53:18, 54:4, 68:20, 78:11 respectively [1] - 93:14 respond [4] - 16:9, 16:19, 30:19, 75:26 response [1] - 91:9 responsibility [4] - 17:11, 24:8, 87:25, 88:26 responsible [1] - 88:17 rest [1] - 76:6 result [6] - 16:11, 33:9, 33:10, 57:27, 57:28, 58:11 results [1] - 37:14 resume [2] - 9:7, 9:19 RESUMED [1] - 6:1 resumption [1] - 13:9 retain [4] - 30:29, 75:6, 75:8, 78:15 retention [2] - 85:21, 88:21 retire [1] - 19:6 returned [4] - 53:8, 53:9, 53:11, 54:2 review [2] - 44:10, 75:4 right' [1] - 14:9 right-hand [1] - 29:5 rights [1] - 13:4 risk [1] - 79:8 Robinson [1] - 59:15 robinson's [1] - 15:11 Robinson's [1] - 96:21 Roisin [1] - 47:9 role [1] - 24:12 room [6] - 15:8, 39:14, 60:2, 60:6, 60:22, 60:23 Roscommon [1] - 45:26 Roughly [1] -
---	--	--	---	--	--

48:8 Royal [2] - 24:5, 71:17 rules [3] - 6:10, 89:24, 91:11 run [1] - 9:19 runs [4] - 28:25, 44:15, 71:28, 83:15 Russell [2] - 27:19, 103:3	53:28, 54:6 scroll [5] - 26:20, 27:4, 27:28, 27:29, 30:19 scrolling [1] - 27:14 scrutinise [1] - 20:16 second [23] - 26:20, 26:22, 28:28, 29:6, 32:16, 34:7, 43:17, 44:1, 49:8, 54:20, 54:23, 55:1, 56:20, 57:13, 60:1, 60:28, 64:19, 65:28, 66:24, 67:5, 75:3, 75:16, 96:27 secretary [1] - 47:3 secure [4] - 21:22, 58:23, 103:15, 104:6 securely [1] - 75:9 secures [3] - 77:6, 93:20, 102:15 see [54] - 10:27, 15:7, 16:17, 18:4, 27:6, 27:9, 28:1, 28:11, 28:28, 30:5, 30:6, 32:19, 40:1, 43:17, 43:29, 45:20, 48:18, 57:2, 57:12, 57:13, 57:16, 57:18, 57:25, 57:26, 57:27, 58:5, 58:10, 61:9, 61:21, 63:4, 63:7, 63:8, 63:9, 63:20, 66:14, 69:24, 70:23, 72:23, 74:26, 75:13, 81:6, 81:8, 84:15, 92:10, 93:1, 94:10, 97:8, 97:11, 97:13, 98:6, 98:15, 98:16, 98:23 seeing [1] - 61:6 seem [2] - 18:28, 20:2 self [1] - 94:19 self-employed	[1] - 94:19 send [6] - 24:21, 62:16, 62:18, 62:19, 95:18 sender [1] - 51:24 sending [1] - 95:5 senior [4] - 23:12, 70:15, 81:25, 93:5 sense [8] - 9:24, 35:10, 49:19, 63:13, 93:24, 98:24, 98:29, 103:21 sent [18] - 27:9, 35:1, 39:22, 65:20, 68:14, 73:25, 74:5, 74:7, 74:9, 74:13, 74:15, 74:29, 75:16, 75:21, 75:24, 84:23, 95:20, 99:22 sentence [1] - 44:1 separately [1] - 8:29 September [5] - 44:4, 44:19, 52:27, 54:1, 58:1 September/ October [2] - 68:5, 68:13 sergeant [1] - 60:6 serious [1] - 64:10 seriously [3] - 10:3, 10:12, 18:18 serves [1] - 45:25 service [1] - 57:9 session [1] - 19:6 set [2] - 8:3, 91:11 several [2] - 23:14, 25:1 shocked [1] - 10:10 SHORT [1] - 19:9 shortly [1] - 74:20 show [6] - 30:23, 42:7, 63:3,	76:1, 96:26, 99:4 shows [2] - 29:21, 87:1 shut [1] - 8:23 SI [2] - 91:11, 91:18 sic [2] - 52:10, 74:24 sic [1] - 56:14 sick [1] - 34:9 side [3] - 29:5, 88:13, 105:14 sign [4] - 98:5, 98:7, 98:11 signal [3] - 54:23, 100:24, 100:27 signature [2] - 43:23, 52:11 SIGNED [1] - 50:19 signed [12] - 31:15, 43:18, 43:20, 44:4, 44:19, 44:23, 45:14, 46:15, 46:23, 52:10, 52:11, 98:11 significance [3] - 78:5, 78:17, 79:4 signing [2] - 43:23, 44:10 similar [4] - 10:25, 28:8, 44:22, 71:17 simple [4] - 32:26, 34:2, 61:19, 77:28 Simply [1] - 50:4 simply [4] - 16:1, 21:16, 62:8, 77:24 single [1] - 49:8 siobhanchamp ion@mcirl [1] - 27:9 Siobhán [4] - 27:17, 72:27, 84:24, 85:5 sit [2] - 6:29, 104:3 site [1] - 38:11 sites [1] - 88:3 sitting [1] - 55:11 situation [1] - 50:25 six [6] - 25:3, 25:4, 28:22, 31:1,	73:11, 74:22 skipping [1] - 74:17 slower [1] - 65:17 small [1] - 58:29 sole [1] - 46:29 solicitor [8] - 7:14, 7:15, 7:18, 9:26, 10:13, 46:20, 54:19, 79:5 solicitors [2] - 15:28, 16:1 Solicitors [1] - 59:15 someone [8] - 7:19, 35:13, 61:21, 61:25, 64:28, 65:2, 66:23, 78:9 sometime [1] - 96:3 sometimes [3] - 37:16, 47:2, 104:20 somewhat [1] - 83:17 somewhere [1] - 66:16 sop [1] - 26:16 sorry [48] - 7:7, 18:21, 22:9, 22:20, 23:22, 23:28, 24:2, 25:24, 25:26, 26:15, 26:20, 26:29, 27:2, 28:17, 31:5, 31:23, 35:6, 35:20, 36:21, 36:27, 36:28, 41:19, 43:14, 45:19, 45:20, 50:11, 54:18, 54:22, 55:1, 57:13, 57:17, 60:18, 63:15, 67:7, 69:1, 76:15, 76:21, 76:25, 80:21, 91:26, 96:18, 96:26, 98:12, 100:7, 100:24, 100:26, 101:14, 102:5 Sorry [1] - 26:28 sort [4] - 25:24, 26:21, 37:2 speaking [1] - 45:2	specialised [1] - 56:26 specialist [1] - 82:28 speciality [1] - 28:12 specific [3] - 11:10, 56:21, 65:23 specifically [3] - 11:15, 19:20, 76:22 spending [1] - 83:8 spirit [1] - 104:18 spoken [3] - 52:4, 52:16, 53:8 staff [1] - 106:3 stage [4] - 37:6, 43:3, 56:4, 90:16 stance [1] - 12:19 standard [1] - 94:24 standing [1] - 95:7 start [9] - 18:8, 18:9, 26:24, 32:29, 40:26, 49:28, 68:15, 95:5, 98:26 started [2] - 32:28, 94:28 state [1] - 86:21 State [3] - 82:22, 83:4, 83:7 Statement [2] - 30:23, 73:15 statement [87] - 14:15, 27:19, 28:4, 28:15, 29:8, 29:13, 29:28, 30:15, 31:7, 31:12, 31:13, 34:13, 34:14, 37:8, 37:12, 39:18, 39:20, 39:24, 39:25, 42:29, 43:6, 43:15, 43:20, 43:26, 43:28, 43:29, 44:3, 44:7, 44:14, 44:15, 44:18, 45:18, 46:4, 46:9, 51:1, 51:2, 51:5, 52:7, 52:19, 54:13, 54:16, 54:17, 61:5, 62:16,
--	---	--	--	---	--

62:17, 62:20, 62:21, 62:26, 63:1, 84:9, 94:4, 94:11, 94:13, 95:26, 96:1, 96:4, 96:14, 96:16, 97:3, 97:6, 97:17, 97:18, 97:19, 98:2, 98:4, 98:6, 98:9, 98:10, 98:11, 98:17, 98:19, 98:21, 99:2, 99:17, 99:18, 99:19, 99:23, 101:5, 101:6, 101:8, 101:11, 101:12, 101:24, 101:27, 102:3 statement [1] - 30:27 statements [13] - 10:24, 13:20, 13:21, 37:14, 41:25, 42:5, 42:8, 42:10, 54:4, 62:23, 84:27, 85:16, 94:7 Station [10] - 41:15, 51:9, 51:10, 52:9, 52:23, 52:28, 53:13, 93:29, 94:12, 99:20 station [11] - 41:17, 51:25, 51:28, 52:2, 52:5, 62:5, 64:3, 65:4, 66:8, 66:18, 66:23 statistical [1] - 37:2 status [1] - 53:21 statutory [2] - 85:14, 88:9 stenographer [1] - 55:23 step [1] - 34:19 still [6] - 21:5, 39:14, 41:17, 76:14, 95:14, 98:20 stop [7] - 24:1, 50:5, 52:16, 54:25, 80:22 stored [1] - 75:5 Street [2] - 41:14, 65:4 strokestown [1]	- 45:20 strong [1] - 95:3 strongest [2] - 8:5, 17:10 structure [1] - 33:13 subject [1] - 64:8 subjected [1] - 51:12 submission [3] - 8:15, 15:21, 53:17 SUBMISSION [6] - 3:7, 3:8, 3:9, 13:27, 14:29, 16:15 submissions [1] - 19:16 submit [2] - 33:17, 33:21 submitted [3] - 33:3, 33:4, 65:25 subscriber [8] - 54:10, 56:28, 57:5, 57:15, 57:20, 57:22, 58:4, 58:11 subsequent [2] - 13:5, 86:22 subsequently [2] - 84:26, 85:6 suggest [1] - 9:1 suggested [1] - 17:29 suggestion [7] - 11:26, 17:10, 17:25, 19:24, 19:25, 20:1, 104:10 suitable [2] - 7:24, 9:16 summarise [2] - 26:4, 71:18 summary [1] - 75:29 superior [1] - 94:26 supplied [2] - 53:14, 57:4 supply [1] - 57:3 support [1] - 10:20 supported [2] - 70:15, 74:11 suppose [7] - 21:10, 35:25, 36:5, 44:9, 56:28, 65:5, 97:15 supposed [2] -	11:3, 26:2 surely [1] - 49:14 surgeon [1] - 71:6 surgical [1] - 71:10 suspect [2] - 23:13, 103:8 swear [6] - 22:18, 22:24, 40:9, 70:1, 81:10, 92:18 switch [2] - 20:25, 51:25 switched [1] - 32:20 sworn [6] - 22:16, 22:22, 40:7, 69:29, 81:10, 92:17 system [7] - 13:29, 16:4, 16:28, 33:6, 39:19, 49:8, 75:8 Síochána [4] - 41:13, 51:8, 57:8, 96:24	51:15, 53:13, 53:29, 54:5, 54:6, 95:5, 95:13, 95:17, 98:26 texted [2] - 45:5, 45:6 texting [3] - 50:8, 65:13, 98:26 texts [5] - 45:10, 52:7, 52:18, 53:19, 53:24 THE [28] - 3:6, 3:10, 3:17, 3:22, 4:6, 4:12, 4:18, 6:1, 12:5, 19:9, 19:12, 37:29, 39:11, 42:18, 69:18, 77:10, 79:18, 80:19, 86:4, 89:14, 91:4, 97:29, 100:29, 102:23, 106:6 Thelma [1] - 27:19 thematic [1] - 33:9 themes [1] - 33:10 themselves [2] - 20:17, 103:17 THEN [7] - 19:9, 37:29, 69:18, 80:19, 91:4, 102:23, 106:6 Therefore [1] - 73:15 therefore [1] - 31:11 thi [1] - 41:5 thinks [1] - 42:24 third [7] - 15:27, 57:12, 57:14, 59:15, 60:4, 60:24, 60:25 this [1] - 27:23 three [3] - 60:21, 74:17, 86:8 throughout [1] - 70:26 THURSDAY [1] - 6:1 tick [1] - 90:7 tied [1] - 31:8 TO [7] - 3:6, 3:22, 12:5, 42:18, 43:8, 106:6 today [32] - 6:26, 8:9, 8:11, 8:12,	8:24, 8:26, 9:1, 12:23, 13:17, 15:9, 16:25, 20:8, 20:9, 23:13, 32:3, 38:29, 40:19, 67:22, 68:21, 70:17, 70:28, 77:3, 80:14, 81:28, 91:22, 92:28, 93:18, 102:18, 102:25, 103:1, 103:18, 105:19 today's [1] - 20:12 Tom [2] - 14:9, 36:9 tomorrow [4] - 7:17, 20:19, 103:23, 104:3 took [12] - 13:2, 42:8, 52:28, 94:13, 94:27, 96:13, 96:16, 97:18, 98:10, 101:9, 101:18, 101:24 top [5] - 26:22, 57:27, 58:1, 97:9, 97:12 totality [1] - 12:23 totally [1] - 14:9 towards [3] - 12:22, 16:22, 58:10 town [1] - 57:23 toxic [1] - 95:25 training [18] - 24:15, 24:27, 24:29, 25:2, 25:4, 28:7, 28:21, 28:23, 72:5, 82:27, 82:28, 82:29, 85:13, 86:24, 87:16, 88:1, 88:3, 88:23 transcript [10] - 6:20, 13:11, 14:2, 14:4, 20:12, 20:15, 55:23, 55:24, 103:13, 103:18 travelled [1] - 51:22 trialView [1] - 59:17 TrialView [17] - 26:11, 26:19, 26:26, 26:29,	27:28, 29:27, 30:3, 43:12, 56:7, 56:9, 59:13, 59:14, 72:15, 84:8, 94:7, 96:20, 97:11 TrialView's [1] - 55:26 tried [2] - 38:12, 48:29 trouble [3] - 24:18, 95:4, 100:22 troubleshoot [1] - 24:19 true [1] - 49:29 truth [1] - 10:12 try [7] - 7:3, 9:23, 24:21, 35:16, 50:13, 51:22, 57:1 trying [14] - 8:23, 14:5, 14:7, 16:21, 16:23, 22:10, 31:23, 32:11, 49:26, 50:1, 60:19, 65:16, 67:14, 100:26 Tullamore [5] - 52:22, 62:5, 62:10, 93:28, 94:12 turn [1] - 42:25 turned [1] - 14:3 twice [1] - 14:19 two [28] - 9:11, 9:13, 14:4, 14:18, 15:2, 15:3, 15:9, 18:5, 29:4, 37:18, 48:26, 56:1, 61:12, 62:6, 62:9, 62:12, 63:21, 63:24, 65:5, 76:10, 82:23, 86:8, 93:8, 97:17, 99:11, 101:24 two-day [1] - 14:4 two-page [1] - 101:24 two/three [1] - 32:26 type [3] - 37:22, 101:11, 101:17 typed [7] - 62:16, 101:2, 101:5, 101:10, 101:15, 101:17 typo [1] - 45:29
---	--	--	--	--	---

U	30:19, 31:15, 34:21, 37:15, 41:28, 42:2, 45:19, 49:25, 57:17, 59:10, 59:19, 59:20, 60:6, 60:25, 62:29, 63:1, 63:2, 63:3, 63:7, 63:8, 63:11, 64:6, 67:7, 84:8, 84:26, 85:5, 85:23, 86:9, 86:22, 87:2, 87:3, 89:6, 94:7, 94:29, 95:9, 95:15, 96:20, 98:22, 99:4, 101:3	Voluntary ^[1] - 45:18 volunteered ^[1] - 105:12	WITNESS ^[87] - 3:2, 3:4, 3:7, 3:9, 3:15, 3:27, 4:5, 4:11, 4:17, 7:11, 7:13, 9:26, 10:3, 10:6, 10:8, 10:17, 10:27, 11:18, 13:24, 13:27, 13:29, 16:8, 16:15, 16:17, 18:1, 18:4, 19:1, 20:18, 32:18, 32:23, 32:25, 36:13, 38:16, 39:11, 39:16, 39:22, 39:27, 39:29, 58:29, 59:4, 59:7, 59:10, 59:18, 61:6, 61:9, 63:20, 64:4, 67:13, 67:19, 67:25, 67:29, 68:23, 68:27, 69:16, 69:18, 77:10, 77:12, 77:18, 77:21, 77:28, 78:8, 78:16, 79:1, 79:16, 79:18, 80:1, 80:19, 86:4, 86:6, 89:14, 89:28, 90:1, 91:4, 97:29, 98:2, 98:15, 100:29, 102:23, 103:22, 104:4, 105:5, 105:17, 105:28, 106:1 Witness ^[209] - 6:15, 6:16, 7:25, 8:14, 8:23, 9:12, 9:22, 12:8, 12:17, 13:3, 13:9, 13:16, 13:21, 14:6, 15:16, 15:22, 15:26, 16:10, 16:12, 17:15, 17:23, 19:5, 20:8, 21:5, 21:6, 21:15, 21:21, 23:24, 23:25, 23:26, 23:29, 29:15, 30:13, 31:28, 32:3, 32:4, 32:9, 32:11, 32:13, 36:14, 37:1, 38:23, 39:20, 40:27, 40:29, 41:20, 41:21, 41:22, 42:11, 42:23, 42:28,	43:15, 43:22, 43:26, 44:10, 44:15, 44:24, 45:1, 45:2, 45:7, 45:18, 45:25, 46:17, 46:25, 46:29, 47:7, 47:20, 48:3, 48:15, 49:12, 49:28, 50:6, 50:14, 50:19, 50:22, 50:26, 50:28, 51:10, 51:13, 51:16, 51:18, 51:20, 51:21, 51:27, 51:29, 52:1, 52:2, 52:4, 52:7, 52:10, 52:11, 52:12, 52:13, 52:15, 52:16, 52:17, 52:21, 52:22, 52:24, 52:28, 52:29, 53:2, 53:7, 53:9, 53:12, 53:14, 53:20, 53:21, 53:22, 53:25, 53:26, 53:27, 53:29, 54:2, 54:4, 54:10, 54:12, 55:3, 55:10, 57:5, 57:22, 58:12, 58:17, 58:18, 58:20, 58:27, 61:10, 61:17, 62:22, 63:29, 65:9, 65:19, 67:10, 68:3, 68:14, 70:22, 70:24, 70:26, 72:24, 73:4, 73:7, 73:16, 76:1, 76:8, 76:15, 76:22, 76:28, 77:1, 77:3, 77:7, 78:11, 79:13, 79:28, 80:6, 82:5, 82:6, 84:18, 84:22, 85:8, 85:13, 85:27, 89:5, 90:14, 91:8, 91:10, 93:9, 93:10, 93:12, 93:13, 93:17, 93:19, 94:3, 94:4, 94:11, 94:14, 94:18, 94:22, 94:23, 95:5, 95:11, 95:13, 95:17, 95:22,	95:25, 96:4, 96:10, 96:12, 96:14, 96:23, 97:4, 98:18, 99:15, 101:6, 101:9, 102:3, 102:14, 103:2, 103:7, 103:11, 105:22 witness ^[44] - 6:17, 7:5, 7:9, 8:17, 8:19, 11:21, 19:27, 21:25, 23:27, 27:20, 29:28, 32:10, 32:21, 36:12, 36:16, 38:26, 39:14, 61:28, 63:17, 67:17, 69:21, 77:8, 77:17, 78:12, 78:13, 78:24, 78:26, 78:28, 80:9, 84:9, 89:6, 89:9, 90:17, 90:24, 90:26, 91:7, 91:21, 91:28, 96:14, 96:16, 97:26, 98:13, 100:17, 100:20 witnessed ^[6] - 43:18, 43:22, 43:23, 46:23, 52:11, 95:23 witnesses ^[30] - 8:11, 8:12, 8:13, 8:15, 8:18, 8:24, 10:1, 11:11, 12:20, 12:27, 13:2, 13:5, 13:17, 13:19, 14:18, 15:3, 17:5, 19:19, 19:21, 19:26, 20:10, 20:17, 21:3, 21:26, 55:14, 80:4, 102:25, 103:20, 104:14, 105:23 wonder ^[13] - 21:26, 26:19, 26:21, 27:1, 27:2, 36:19, 44:28, 54:18, 54:20, 84:8, 85:27, 94:7, 96:20 word ^[2] - 48:16, 49:8 wording ^[2] - 38:19, 86:19	
UK ^[2] - 18:6, 49:25 unable ^[2] - 6:29, 53:2 unacceptable ^[1] - 18:22 unaware ^[1] - 66:3 under ^[7] - 6:5, 6:11, 56:11, 56:15, 58:6, 73:13, 96:24 undermining ^[1] - 95:1 understandabl e ^[1] - 10:15 understood ^[4] - 21:9, 21:19, 42:13, 62:4 undertake ^[1] - 89:19 undertook ^[2] - 51:24, 52:13 unfair ^[1] - 18:12 unit ^[3] - 56:26, 57:2, 57:8 Unit ^[2] - 54:9, 56:12 University ^[1] - 102:29 unknown ^[1] - 51:15 unless ^[1] - 21:13 unmute ^[3] - 22:5, 32:12, 55:4 unmuted ^[3] - 21:6, 23:28 unnecessarily ^[1] - 80:28 unnecessary ^[1] - 80:3 unprepared ^[1] - 12:11 unrepresented ^[1] - 8:17 unwanted ^[8] - 45:10, 51:19, 53:19, 53:24, 53:29, 54:5, 54:6, 54:12 up ^[56] - 11:2, 16:21, 16:25, 17:9, 22:10, 22:20, 24:20, 24:23, 26:11, 26:16, 29:10,	W	waiting ^[2] - 15:8, 39:14 wants ^[2] - 15:16, 91:26 WAS ^[15] - 22:28, 32:23, 36:24, 37:29, 40:13, 59:7, 70:6, 77:10, 79:18, 81:16, 86:4, 89:14, 92:23, 97:29, 100:29 ways ^[1] - 9:17 website ^[1] - 34:26 week ^[1] - 84:24 weekend ^[3] - 47:6, 48:25, 95:21 welcome ^[3] - 6:24, 23:5, 92:27 Wexford ^[3] - 57:22, 57:23, 58:12 WhatsApp ^[5] - 48:26, 48:27, 49:11, 49:16, 49:17 whatsApp ^[1] - 49:7 whatsoever ^[1] - 63:18 whichever ^[1] - 83:12 wide ^[1] - 33:12 win ^[1] - 23:19 wish ^[14] - 7:8, 10:16, 20:23, 48:17, 53:15, 65:23, 69:2, 69:14, 73:2, 77:6, 90:25, 102:8, 103:20, 105:3 wished ^[3] - 44:12, 51:11, 53:1 wishes ^[3] - 19:20, 42:4, 83:4 WITHDREW ^[5] - 39:11, 69:18, 80:19, 91:4, 102:23				
V	vague ^[2] - 48:19, 64:23 variable ^[1] - 37:21 various ^[6] - 24:14, 26:5, 87:16, 88:6, 88:21, 105:23 vendors ^[1] - 56:27 verbatim ^[4] - 43:2, 48:21, 64:26, 67:3 verified ^[2] - 64:14, 64:15 via ^[3] - 52:19, 95:13, 95:17 view ^[4] - 13:6, 53:13, 53:17, 68:17 Vodafone ^[1] - 58:11 voluntary ^[7] - 45:12, 46:6, 46:9, 50:16, 52:6, 52:8, 52:29					

words ^[4] - 47:26, 47:28, 48:21 worried ^[1] - 65:10 worse ^[1] - 104:19 write ^[2] - 33:25, 33:26 written ^[1] - 97:6 wrongdoing ^[1] - 16:21 wrote ^[4] - 27:7, 27:26, 46:1, 87:18	60:3, 84:14, 85:2, 88:17
Y	Z
Yeah ^[1] - 46:21 year ^[53] - 28:14, 28:15, 29:1, 30:24, 30:26, 30:29, 31:10, 31:16, 31:21, 35:3, 35:4, 35:6, 35:8, 35:9, 35:14, 35:17, 35:25, 35:28, 37:10, 37:11, 37:17, 47:13, 71:25, 71:28, 73:11, 73:16, 73:26, 74:5, 74:7, 74:9, 74:14, 74:15, 74:16, 74:23, 75:7, 75:26, 78:20, 82:23, 83:6, 83:15, 83:18, 83:19, 83:20, 83:26, 83:27, 84:2, 84:7, 85:25, 89:25, 90:6 years ^[19] - 10:28, 11:4, 29:18, 30:25, 31:1, 31:11, 31:19, 73:11, 73:12, 74:6, 74:22, 76:3, 76:10, 78:4, 78:9, 79:15, 79:23, 85:9, 85:20 Yes ^[1] - 46:13 yesterday ^[7] - 8:3, 14:10, 14:11, 17:15, 95:19, 103:1, 104:19 yourself ^[4] -	zero ^[1] - 83:20