

MEDICAL COUNCIL OF IRELAND

FITNESS TO PRACTISE COMMITTEE

UNDER PART 8 OF THE MEDICAL PRACTITIONERS ACT 2007

RE: DR. HASSAAN AFFA BEG CHUGHTAI

REGISTRATION NO: 405670

REMOTE HEARING BEFORE THE FITNESS TO PRACTISE COMMITTEE

(IN PUBLIC) VIA TRIALVIEW

ON WEDNESDAY, 17TH APRIL, 2024 - DAY 1

1

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APPEARANCES

THE COMMITTEE :

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

LEGAL ASSESSOR :

MR. DIARMAID MCGUINNESS SC

FOR THE CEO :

MR. HUGH McDOWELL BL

INSTRUCTED BY :

MS. SARA O'SULLIVAN
SOLICITOR
MESSRS. FIELDFISHER
SOLICITORS

FOR THE REGISTRANT :

SELF-REPRESENTING

ALSO PRESENT :

MR. NICK FLYNN
CEO EXPERT WITNESS

MS. JANE HORAN
PROFESSIONAL STANDARDS SECTION OF
THE MEDICAL COUNCIL

MR. ALEXANDER MURRAY
PROFESSIONAL STANDARDS SECTION OF
THE MEDICAL COUNCIL

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1 THE HEARING COMMENCED AS FOLLOWS ON WEDNESDAY,
2 17TH APRIL 2024:

3
4 CHAIRPERSON: Thank you very much all. This inquiry is
5 taking place remotely by way of the TrialView
6 conferencing platform. And in the event that any
7 active participant's WiFi signal weakens, the TrialView
8 system will endeavour to try to maintain the image
9 and/or audio of the person who is speaking at that
10 particular time.

10:15

10:16

11
12 Full service may resume when your WiFi signal improves,
13 but if you encounter this difficulty please let me
14 know, as it may be necessary to pause the Inquiry to
15 allow you to refresh your connection.

10:16

16
17 Now, in the event that any participant loses their
18 connection entirely, it will be necessary to pause the
19 hearing until that participant has rejoined the
20 hearing.

10:16

21
22 If this happens, please note that the administrator or
23 a member of the Professional Standards staff should be
24 contacted immediately. I note that the administrator's
25 details have been provided to the parties in advance.

10:16

26
27 And obviously depending on when the part pant lost
28 audio or visual, it may be necessary to repeat
29 submissions or evidence.

1 I would ask that all parties who are active activate
2 their cameras and mute their microphones until they
3 need to speak in order to avoid any interference during
4 this inquiry.

5
6 Active participants should have their cameras active
7 throughout the hearing, though I do note that one of
8 the Committee members is having some WiFi connections
9 and may need to mute their camera at points.

10
11 Please note that the parties are not permitted to make
12 any recordings, be they video or audio, or to take
13 pictures during the course of the hearing.

14
15 Access to documents at the remote hearing is restricted
16 to those who are permitted to view them ordinarily at
17 an in-person inquiry. Observers/members of the public
18 are not permitted to access or view documents.

19
20 If for some reason it is the case that documents are
21 made available to view in error, observers are required
22 to immediately contact the administrator or a member of
23 the Professional Standards staff of such an occurrence.

24
25 Now, this is an inquiry by the Fitness to Practise
26 Committee under Part 8 of the Medical Practitioners Act
27 2007. This is an inquiry into allegations of
28 professional misconduct and/or poor professional
29 performance and/or a contravention of a provision of

1 the Medical Practitioners Act of 2007, including a
2 provision of any regulations or rules made under this
3 Act on part of Dr. Hassaan Chughtai, registration no.
4 405670.

5
6 Let me introduce the members of the Fitness to Practise
7 Committee. My name is Paul Harkin, I am the Chair of
8 this Inquiry Committee, I am not a medical
9 practitioner.

10
11 Other members of the member, you will see on screen,
12 include, Ms. Mary Devins, who is also not a medical
13 practitioner, and Dr. Mary Davin-Power, who is a
14 medical practitioner.

15
16 The Committee is assisted by Mr. Diarmaid McGuinness,
17 senior counsel, who is legal assessor to the Committee.
18 So a brief word on the role of the legal assessor.

19
20 The legal assessor is not a member of the Committee.
21 He therefore has no role to play in respect of the
22 Committee's findings as to whether any allegation is
23 proven.

24
25 The legal assessor is in attendance to assist the
26 Committee in relation to legal issues or arguments
27 which may arise during the course of the hearing.

28
29 The legal assessor will tell the practitioner and the

1 CEO's legal advisors of the advice that he intends to
2 give.

3
4 The legal assessor will permit submissions to be made
5 by the parties on that advice, and the Committee will 10:19
6 then retire, if necessary, to make its decision in
7 private in light of the advice of the legal assessor
8 and the submissions made.

9
10 Now, in accordance with Section 65 of the Act, the 10:19
11 Inquiry will be held in public.

12
13 The Committee notes the definitions of professional
14 misconduct and poor professional performance are as set
15 out in the Medical Council's Guide to Ethical Conduct 10:19
16 and Behaviour, 8th Edition, and the Medical
17 Practitioners Act of 2007. I think we are now on to
18 the 9th edition of the ethical guide. I will now pause
19 and take appearances please.

20 MR. McDOWELL: Thank you, chairperson, Hugh McDowell is 10:20
21 my name, I am a barrister appearing on behalf of the
22 Chief Executive of the Medical Council, instructed by
23 Ms. O'Sullivan of Fieldfisher Solicitors.

24 CHAIRPERSON: Good morning, Mr. McDowell.

25 MR. McDOWELL: Good morning. Dr. Chughtai, you are 10:20
26 very welcome, thank you for making yourself available
27 for this inquiry.

28 DR. CHUGHTAI: well the thing is, I want to apply for
29 an adjournment first on the basis that I don't have

1 legal support, and this is against a fair trial that I
2 don't have any support of the solicitor at present.

3
4 I made few requests from the CEO's solicitor and legal
5 team. Unfortunately none of them have been fulfilled. 10:20
6 The most important is they have a lot of screenshots,
7 and they have never verified any of them, and most of
8 them, in fact 99% of them they are either redacted or
9 they are any way related to me. I hand over my phone
10 to the forensic so that I get a report to disprove 10:21
11 their allegation. That is the most important thing in
12 all of these circumstances.

13
14 Second -- well, I had made this -- I have informed this
15 to my previous solicitor, through my previous 10:21
16 solicitor --

17 CHAIRPERSON: Dr. Chughtai, can I just pause you at
18 this point, because I understand that you are not
19 legally represented, and I don't want to put you under
20 any pressure. So at this point let me just -- I 10:21
21 understand you are going to make an application for an
22 adjournment. So I will just pause you at this point
23 and I will just conclude my preliminaries. And I will
24 ask Mr. McDowell to present some outline facts on this
25 case, because this is a public inquiry, and in fairness 10:21
26 to yourself, who is not legally represented, until you
27 hear the allegations that are presented to you, it is
28 important that you reserve your position, I think.

1 If you just bear with me one second further. I note
2 that you will be making an application for an
3 adjournment.

4
5 I just wanted to say that this Committee is bound by 10:22
6 rule 29 of the rules made by the Medical Council on 6th
7 August of 2020 under Section 11 of the Medical
8 Practitioners Act of 2007, regarding the conduct of
9 proceedings, that is to apply the criminal standard of
10 proof i.e. beyond reasonable doubt. And that's the 10:22
11 standard that will be applied in this inquiry.

12
13 I am going to -- before I invite Dr. Chughtai to make
14 his application for an adjournment, I will just ask
15 Mr. McDowell, do you have any matter that you would 10:22
16 like to raise with us at this point?

17
18 SUBMISSION BY MR. McDOWELL:

19
20 MR. McDOWELL: Yes, chairperson, thank you, so there is 10:23
21 a couple of things I would like to say. The first
22 thing is that although, as you identified, the Inquiry
23 is taking place in public, at a callover that took
24 place on 3rd May of last year, at which you were the
25 chairperson, and at which Dr. Chughtai was legally 10:23
26 represented, a Callover Committee acceded to three
27 applications made on behalf of the Chief Executive.

28
29 The first was that the Inquiry take place remotely, and

1 that's obviously what is happening.

2
3 The second is that the complainant would be anonymised.
4 And I suppose I am just raising that to remind the
5 Committee of that ruling of the Callover Committee. 10:23

6 And I can see on TrialView that the complainant here is
7 referred to as witness A. It probably won't be
8 possible, I should say, to fully avoid her name being
9 mentioned at certain junctures, but I would ask that
10 you as chair would make a direction that any members of 10:23
11 the public here would abide by the anonymisation order
12 that has already been made.

13
14 And the third ruling that was made on 3rd May of last
15 year was that when witness A comes to give her 10:24
16 evidence, that a facility will be put in place on
17 TrialView that Dr. Chughtai will would not be able to
18 see her. So in other words, the digital equivalent of
19 a screen that might be seen in a criminal case.

20 10:24
21 So that -- and that direction was made by the Committee
22 last May.

23
24 Now, how sustainable that direction is in light of the
25 fact that Dr. Chughtai is not legally represented, I 10:24
26 think, is a matter that some thought might have to be
27 given to. But for the time being, at least, that
28 direction remains in place. So I raise those matters
29 just to remind the Committee of them.

1 And then I should just also say at outset that I will
2 be opposing Dr. Chughtai's adjournment application in
3 the strongest possible terms, and I will be seeking to
4 proceed with the Inquiry today.

5 CHAIRPERSON: Thank you, Mr. McDowell, that's actually 10:25
6 very helpful to this Committee. This is a new
7 Committee, so while I may have been involved in
8 previous callovers, I don't have the privilege of that
9 documentation. So it is very useful to have that
10 reminder of what had been previously determined. 10:25

11 MR. McDOWELL: Sorry, just to interrupt and to say,
12 there is a booklet of inter partes correspondence that
13 we can upload to TrialView, which includes the
14 transcripts of that callover and other callovers that
15 occurred in this case, and I can open that to you, if 10:25
16 needs be, but the need may not arise.

17 CHAIRPERSON: Yeah, okay. So before I invite
18 Dr. Chughtai to make his application, could I just
19 impose upon our legal assessor if there is any matter
20 that I should attend with before I invite 10:25
21 Dr. Chughtai's application.

22
23 LEGAL ADVICE BY MR. McGUINNESS:

24
25 MR. McGUINNESS: The only matter that the Committee 10:25
26 might consider is whether, if the complainant is to be
27 anonymised, and if directions have previously been
28 given in relation to her visibility, as it were,
29 whether there are grounds being advanced by either

1 party that the matter proceed in private? And I only
2 raise that as a possibility, it is not a submission by
3 me. But if there is a risk of the directions not being
4 followed, parties might consider whether or not it
5 would be appropriate to make that application. That's 10:26
6 the only view I would offer at this stage.

7 CHAIRPERSON: That's very helpful, Mr. McGuinness.
8 Mr. McDowell, do you have any comments on
9 Mr. McGuinness' suggestion?

10
11 SUBMISSION BY MR. McDOWELL:

12
13 MR. McDOWELL: So, to take the second issue first, this
14 is the visibility of witness A, whether the hearing
15 takes place in public or private in my submission 10:26
16 doesn't really have any bearing on that facility,
17 because witness A's concern was that
18 Dr. Chughtai would not be able to see her. And whether
19 the hearing take place in public or private, that
20 concern would remain, so I don't think that has any 10:27
21 bearing on the public/private issue.

22
23 In a pre-hearing consultation I had with witness A, I
24 just raised the question about publicity and privacy
25 and so on, and she confirmed to me that she was 10:27
26 satisfied for the matter to proceed in public, subject
27 to the anonymisation order remaining in place.

28
29 So I have no application for the matter to proceed in

1 private.

2 CHAIRPERSON: Great. Dr. Chughtai, I understand you
3 are not legally represented, so this may be beyond your
4 scope of knowledge, but have you any comments on
5 Mr. McGuinness' suggestion in respect to the privacy 10:27
6 issues that were raised?

7
8 SUBMISSION BY DR. CHUGHTAI:

9
10 DR. CHUGHTAI: Honestly speaking, when someone is 10:27
11 giving evidence -- I think at that time when this issue
12 arise, I was very clear that body language make -- body
13 language give a lot of evidence, you know, and it does
14 matter in a court of law. So I don't understand the
15 reason behind that. 10:28

16
17 For me the most -- at the moment for me the most
18 important thing is to apply for an adjournment and this
19 issue can be discussed later.

20 CHAIRPERSON: Okay, thank you. Committee colleagues, 10:28
21 have you any questions that you would like to raise at
22 this point?

23 MS. DEVINS: No, thank you, chair.

24 CHAIRPERSON: Thank you.

25
26 SUBMISSION BY MR. McDOWELL:

27
28 MR. McDOWELL: Sorry, chair, could I also just raise
29 one matter that Ms. O'Sullivan draws to my attention?

1 One of the members of the public who is watching today
2 is the mother of witness A. And my instructions are
3 that that individual was previously a judge of the
4 Circuit Court. And I understand that one of the
5 Committee members may also have been a judge of the
6 Circuit Court.

10:29

7
8 In my submission that couldn't give rise to any
9 question of fairness or prejudice or conflict of
10 interest, but out of an abundance of caution I draw it
11 to the Committee's attention.

10:29

12 CHAIRPERSON: Thank you for doing that.

13 MS. DEVINS: Sorry, Mr. McDowell, just one correction,
14 I have been a judge of the District Court.

15 MR. McDOWELL: Excuse me, I apologise, excuse me.

10:29

16 CHAIRPERSON: Thank you very much for that.

17 DR. CHUGHTAI: I couldn't hear what he was saying, can
18 you repeat please again?

19 CHAIRPERSON: Yes, Mr. McDowell, I will ask you to just
20 make that last submission again please?

10:29

21 MR. McDOWELL: Yes. I just wanted to draw to the
22 Committee's attention the fact that the complainant's
23 mother was previously a judge, and one of the Committee
24 members, I gather, was also previously a judge. I am
25 not making any issue about it, and I don't think any
26 issue could be made about it, but I wouldn't like it to
27 be suggested after the event that this gave rise to
28 some unfairness, so I am drawing it to the Committee
29 member's attention now.

10:29

1 CHAIRPERSON: So Dr. Chughtai, I know that you are not
2 legally represented, so again I take that into account,
3 but have you any comments or observations to make in
4 respect of Mr. McDowell's submission there in respect
5 of...

10:30

6
7 SUBMISSION BY DR. CHUGHTAI:

8
9 DR. CHUGHTAI: Like to be very honest, there is a lot
10 of conflict of interest. And the most important
11 conflict of interest is I assume that the member of the
12 Committee, they are the employee or indirectly or
13 directly being paid by IMC, if I am not wrong?

10:30

14 CHAIRPERSON: So the members of the Fitness to Practise
15 Committee are volunteers, they are not employees of the
16 Medical Council. They will -- some of those members
17 will be reimbursed for their expenses and paid for
18 their role. Not all members are. For example, I am a
19 public servant, I am not reimbursed for my
20 participation on this Fitness to Practise Committee.

10:30

10:31

21
22 I don't quite understand where that causes a conflict.
23 There is an independence between the Fitness to
24 Practise Committee that's hearing this matter, and this
25 is one of the reasons why we want to be very careful in
26 the proceedings that we are fair to both sides, to the
27 CEO's side, as represented here today by Mr. McDowell,
28 and yourself.

10:31

1 So, I don't understand what the issue is of conflict of
2 interest. If you are saying that it is impossible for
3 a Fitness to Practise Committee to be anything other
4 than conflicted because it is a Fitness to Practise
5 Committee, I think that's a difficult argument to
6 advance, but I would like to perhaps invite
7 Mr. McGuinness, is there anything that he needs to
8 advise me of in respect of the point you have just
9 raised.

10:31

10
11 LEGAL ADVICE BY MR. MCGUINNESS:

10:31

12
13 MR. MCGUINNESS: No, chair. I mean the Fitness to
14 Practise Committee and the composition of it is
15 governed by the Medical Practitioners Act, and the
16 rules relating to the Fitness to Practise Committee
17 rules made under the Act.

10:32

18
19 And absent any actual substance, in my advice there is
20 nothing that would prevent the Committee proceeding as
21 currently constituted.

10:32

22 CHAIRPERSON: Thank you, Mr. McGuinness, that's very
23 helpful.

24
25 Dr. Chughtai, at this stage I will invite you then to
26 make your application, which I understand is for an
27 adjournment?

10:32

28 DR. CHUGHTAI: Yes.

29 CHAIRPERSON: And in doing so, if I ask you to just

1 focus on the issues of the adjournment, why you say it
2 is necessary for you to have an adjournment. You don't
3 need to go into the details of the case.

4
5 In fact my advice to you generally would be, until the 10:32
6 CEO has presented the case against you, it is probably
7 in your best interests to wait to see what the evidence
8 is.

9
10 You come to this inquiry with the presumption of 10:33
11 innocence, and you don't have to prove yourself to be
12 innocent, it is assumed that you are innocent. The
13 onus is on the CEO to prove the case against you.

14
15 So I just want to make that general comment to you, but 10:33
16 I am happy to hear your application for an adjournment
17 now.

18
19 APPLICATION BY DR. CHUGHTAI:

20 10:33
21 DR. CHUGHTAI: You see the most important is that I
22 don't have legal representation. I had an issue with
23 the previous legal representation and there was -- I
24 mean a lot of content that was given in the Core Book,
25 there were screenshots, and I have no attachment or, 10:33
26 you know, I have no link with those, what you call
27 those screenshots. So I discussed that issue with one
28 of the solicitor and we -- I hand over my telephone
29 device to the forensic analysis, and that forensic

1 report will be available in next two or three weeks.

2
3 By that time with the report, I will be able to
4 disprove a lot of allegations and I will be able to,
5 what do you call, the instruct any solicitor and 10:34
6 barrister at that time. So I want to adjourn the
7 matter specifically by that time.

8
9 And the second reason, I mean this continuously said
10 that the complaint was made in June. It was sent to me 10:34
11 on 10th July. Let me make absolutely clear that I was
12 registered with IMC up till 30th June. I had no legal
13 obligation to have a legal representation cover after
14 the end of June. And until July, August, September,
15 October, I was in hospital, and probably it was totally 10:34
16 unfair with me that I have to deal in a case where the
17 other parties is represented by a solicitor and
18 barrister and I have to come by my own.

19
20 On 10th July, I have no legal obligation to, what do 10:35
21 you call, to have a legal cover, like indemnity cover.
22 These are the two most important reasons. Apart from
23 that there are multiple other reason, like I have given
24 them a name of the people I want to subpoena, they have
25 never been done, and I uploaded the document. Can I 10:35
26 bring the document here?

27 CHAIRPERSON: So is this a document that you have
28 shared with Mr. McDowell?

29 DR. CHUGHTAI: Yes, I think the e-mail has been sent to

1 Ms. Sara yesterday, it is the same e-mail.

2 CHAIRPERSON: So Mr. McDowell, you might just help us
3 out here.

4 MR. McDOWELL: I think that Dr. Chughtai is referring
5 to e-mails that he has sent to Ms. O'Sullivan in 10:36
6 Fieldfisher over the last few days. And in opposing
7 the adjournment application I will open those letters
8 to you, so the Committee will see those letters and
9 e-mails.

10 CHAIRPERSON: So, I think, what Dr. Chughtai is saying, 10:36
11 he would like those e-mails to be displayed to the
12 Committee now, is that...

13 MR. McDOWELL: That's possible, yes.

14 DR. CHUGHTAI: So how can we upload the e-mail? How
15 can we... 10:36

16 MR. McDOWELL: So I think -- I don't know if the
17 TrialView operative has access to a document called
18 inter partes correspondence final.

19 MR. MURRAY: Those are being uploaded now, it will take
20 a few moments. 10:36

21 CHAIRPERSON: Thank you. I suggest we just take a
22 couple of minutes. We might just invite the Committee
23 members to retire into private session for a few
24 minutes to give the TrialView operatives an opportunity
25 to upload that documentation, and then we will resume 10:36
26 and hear Dr. Chughtai's application.

27
28 I do note there is some issue with internet connection
29 as well. So hopefully you can all hear me. Committee

1 colleagues, we will go into private session for a
2 moment and that will allow the TrialView operatives to
3 upload the documentation. Thank you.

4
5 THE HEARING ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:

10:37

6
7 CHAIRPERSON: Thank you, I think we are all back here
8 now. So first of all, thank you for your patience. I
9 believe now I can see on screen the TrialView inter
10 partes correspondence has been presented on the screen.
11 And I can confirm that the Committee has received
12 access to that document now.

10:43

13
14 So Dr. Chughtai, I am happy for you to take us through
15 the relevant pages. Now, there is clearly over 600
16 pages in that correspondence, so you just need to
17 restrict yourself to the pages that are relevant to
18 your application. Thank you.

10:43

19 DR. CHUGHTAI: Actually I uploaded myself, can you
20 bring up the document that I uploaded?

10:43

21 CHAIRPERSON: Sorry, you will need to assist us, what
22 is the document that you uploaded?

23 DR. CHUGHTAI: well, the reason for adjournment.

24 CHAIRPERSON: So you have provided -- who have you
25 provided that document to?

10:43

26 DR. CHUGHTAI: I uploaded it on this platform
27 yesterday. I was told that I can upload the document
28 [inaudible - connection lost] --

29 CHAIRPERSON: I am afraid we missed most of that,

1 Dr. Chughtai, your --
2 DR. CHUGHTAI: The e-mail was sent to the CEO.
3 MR. McDOWELL: Chair, if I can help, I don't know what
4 documents precisely Dr. Chughtai is referring to; there
5 is an e-mail that he sent to us yesterday at 19 minutes 10:44
6 past --
7 DR. CHUGHTAI: Yes, the same e-mail that I uploaded.
8 So if that is the document, the e-mail that I sent to
9 Ms. Sara, it's the same I am talking about.
10 MR. McDOWELL: If it is the one I think it is, it is 10:44
11 the one at page 612 of the book.
12 CHAIRPERSON: Thank you, Mr. McDowell.
13 MR. McDOWELL: Perhaps, Dr. Chughtai, could confirm
14 whether that is the right document?
15 CHAIRPERSON: Can you assist us, doctor? 10:45
16 DR. CHUGHTAI: Is it on the screen now?
17 CHAIRPERSON: Can you see what's on the screen?
18 Dr. Chughtai, can you hear us?
19 DR. CHUGHTAI: Taking the time to load. It is phone
20 call main points, I received call from TrialView to 10:45
21 sign up, that's the page?
22 CHAIRPERSON: Yes.
23 DR. CHUGHTAI: Yes.
24 CHAIRPERSON: So for my Committee colleagues, that's
25 page 612 of the document that has been uploaded. So 10:45
26 Dr. Chughtai, what would you like to say in respect of
27 this page?
28 DR. CHUGHTAI: Go down, can you please go down? See
29 the main reason is this communication started from

1 January 2016, and not the -- not April or May, which
2 the CEO is claiming.

3
4 The second most important thing, if you go down please,
5 adjournment basis... yes. So first of all, I hand over 10:46
6 my phone to the team, to the solicitor to get a
7 forensic analysis. I will have that analysis in the
8 next one week or two weeks, and after that time I will
9 be able to, I will be able to disprove a lot of
10 allegation that has been claimed that I have done 10:46
11 wrong.

12
13 The second thing is, I have given the name of Dr. Yash,
14 Dr Aamir and Dr. Yasir, because these people have
15 witnessed the incident during the few weeks when 10:47
16 [REDACTED] was trying to have a parting with me. So I
17 want these people to come and at least give their
18 statement so I can disprove the allegation of CEO that
19 [REDACTED] was not parting with me, she tried to do
20 that many times. And I gave the name, Mr. John 10:47
21 Doherty, Teresa Donnelly, they have tried to contact me
22 on her behalf. I have phone call recording and
23 messages from Ms. Teresa Donnelly, I want their
24 statement as well, that will be provided.

25 10:47
26 And regarding the date of record, I am not saying date
27 of record, what I am asking, date when the record was
28 written. I understand that Ms. Annette Kelly talking
29 about record of 15th April meeting, I am asking on

1 which day she wrote down the records, because she was
2 not writing anything. I want her to tell the date when
3 she has returned the records.
4

5 I am a hundred percent that she has now written any 10:48
6 record on 15th April, and there are some problems on
7 the document as well. So probably if those information
8 I have on hand, I can easily instruct any solicitor.
9

10 But the most important thing is on 10th July, I was not 10:48
11 registered with IMC. That is the most important thing,
12 and I have no legal obligation to have some kind of
13 indemnity cover, when I don't have a legal obligation
14 to indemnity cover, I don't think it was appropriate by
15 Medical Council to send me e-mail, to send me 10:48

16 [inaudible - lost connection] to --

17 CHAIRPERSON: I am afraid, I don't know if our
18 stenographer is catching this, but I am losing your
19 connection, Dr. Chughtai.

20 MS. HORAN: I think it might be worth the doctor 10:49
21 refreshing his screen, I think.

22 DR. CHUGHTAI: I am clear that this is harassment, and
23 I don't want to go to [inaudible - lost connection] --

24 CHAIRPERSON: Dr. Chughtai, can you hear me?

25 DR. CHUGHTAI: Yeah, I can hear you, but can you hear 10:49
26 me?

27 CHAIRPERSON: You broke up for a few moments there, so
28 can I ask you perhaps to refresh --

29 DR. CHUGHTAI: Hello.

1 CHAIRPERSON: Can I ask you to refresh your connection?
2 DR. CHUGHTAI: Can I disconnect and reconnect again?
3 CHAIRPERSON: Please do. My apologies to all, but it
4 is important that we hear Dr. Chughtai's words, and
5 that they are captured for the record as well. 10:49
6 DR. CHUGHTAI: Can you hear me now?
7 CHAIRPERSON: I can hear you now, thank you,
8 Dr. Chughtai. So we lost some of --
9 DR. CHUGHTAI: Hello. I wrote very clearly the most
10 important thing I have instructed [inaudible - lost 10:50
11 connection] --
12 CHAIRPERSON: So again unfortunately, Dr. Chughtai,
13 your signal has broken up again. Dr. Chughtai, I need
14 to pause you there, Dr. Chughtai --
15 DR. CHUGHTAI: -- solicitors in London [inaudible - 10:50
16 lost connection] --
17 CHAIRPERSON: Dr. Chughtai, I don't know if you can
18 hear me, but I can't hear you clearly, so I need you to
19 pause your submission --
20 DR. CHUGHTAI: Okay, can I repeat again? 10:51
21 CHAIRPERSON: Can I just ask you to pause for one
22 second, I am just going to invite --
23 DR. CHUGHTAI: Hello, can I repeat again?
24 CHAIRPERSON: Dr. Chughtai, can I just ask you to pause
25 for one second please? 10:51
26 MR. McDOWELL: I think that Dr. Chughtai has fallen off
27 the --
28 CHAIRPERSON: I think he has. I was just going to ask
29 if there is any member of TrialView who could maybe

1 assist us if there is anything that Dr. Chughtai needs
2 to do to improve his signal?
3 MODERATOR: Chair, I am watching his phone here and it
4 says WiFi signal, that's the issue, I can't fix it from
5 here unfortunately. 10:51
6 CHAIRPERSON: Okay, I appreciate that.
7 DR. CHUGHTAI: Hello, can you hear me now?
8 CHAIRPERSON: Dr. Chughtai, I can only occasionally
9 hear you. Could I ask you to turn off your camera for
10 a moment? Again we seem to have lost Dr. Chughtai, so 10:52
11 perhaps when he reconnected we will see if we can just
12 proceed for a few moments based on audio alone.
13
14 (SHORT PAUSE IN THE HEARING)
15 10:53
16 Dr. Chughtai, I don't know if you can hear me, but your
17 WiFi signal seems to be very low. Could I ask you to
18 just mute your --
19 DR. CHUGHTAI: Hello.
20 CHAIRPERSON: Could I ask you to mute your video so 10:53
21 that -- Dr. Chughtai, if you can hear me, perhaps you
22 could mute your video, turn off your video so that we
23 can conserve whatever connection we have for your
24 audio. Thank you all for your patience.
25 10:54
26 (SHORT PAUSE IN THE HEARING)
27
28 CHAIRPERSON: I think you are connected again,
29 Dr. Chughtai.

1 DR. CHUGHTAI: Hello.

2 CHAIRPERSON: Your signal seems to be better now. Can
3 I just ask you to keep your camera off for the moment?
4 Can you hear me, Dr. Chughtai?

5 DR. CHUGHTAI: Can you hear me now? 10:55

6 CHAIRPERSON: Yes.

7 DR. CHUGHTAI: I kept my camera off. Here I have
8 documentation on 10th July --

9 CHAIRPERSON: Sorry, Dr. Chughtai, can I just pause you
10 for one second, because a lot of your previous 10:55
11 submission was lost to us. So let's work on the basis
12 that what you have said we haven't heard, because we
13 don't have a faithful transcript of what was said.
14

15 So can I ask you to commence from the beginning of your 10:55
16 application please?

17 DR. CHUGHTAI: Okay.

18 CHAIRPERSON: As I understand it, you are telling the
19 Committee that you have no legal representation
20 currently. As I understand it you have told us that 10:55
21 there are certain witnesses that you wish to call,
22 individuals --

23 DR. CHUGHTAI: Hello.

24 CHAIRPERSON: And as I understand it, you have
25 indicated that you have submitted your phone for 10:55
26 forensic analysis which will take a number of weeks.

27 DR. CHUGHTAI: Yes.

28 CHAIRPERSON: Those I understand it are your three
29 principal reasons for seeking an adjournment today.

1 But if there are any additional matters you want to
2 point out to me, please do.

3 DR. CHUGHTAI: Yes, the one more thing, I received this
4 complaint on 10th July 2019. It doesn't matter when
5 the complainant contact the Medical Council. I
6 received on 10th July. And if you look at the Core
7 Book, the formal complaint was made on 9th July.

10:56

8
9 On 10th July, I have no legal obligation to have an
10 indemnity cover for hearing or Medical Council hearing
11 or anything like that. My registration discontinued on
12 30th June 2019. I was in hospital having medical care.
13 So, this was totally unfair against the principal of
14 justice that you bring someone to the Court without
15 solicitor, barrister. This is not equality of the arm.
16 This is again, what you do you call, a fair trial, that
17 that this complaint started when I was not supposed to
18 have indemnity cover. No other Medical Council does
19 this. GMC does not [inaudible - lost connection] --

10:56

20 CHAIRPERSON: And again I am afraid your signal seems
21 to have dropped, Dr. Chughtai, can you hear me?

10:57

22 DR. CHUGHTAI: [Inaudible - lost connection] I have a
23 letter, I uploaded the document that when I complain
24 about cannot initiate the complaint --

25 CHAIRPERSON: Dr. Chughtai, I need to pause you there
26 for one second because we are struggling, or I am
27 struggling to hear you. So maybe I will check with my
28 Committee colleagues, are you having the same issues as
29 I am?

10:58

1 DR. DAVIN-POWER: Yes, it is breaking up all the time.
2 MS. DEVINS: And I equally am having difficulties.
3 CHAIRPERSON: That at least rules out that it is not
4 just my issue, so...
5 MR. MURRAY: Chair, if we are having difficulties with 10:58
6 the connection, I am not sure if this is technically
7 possible, but in the past we have done dial-ins via
8 phone on TrialView. I am not sure if the moderator
9 could confirm if that would be possible to set up for
10 Dr. Chughtai. 10:58
11
12 He obviously wouldn't have video, but it might afford
13 him a better connection than with WiFi.
14 MODERATOR: Yes, I think that would be possible if the
15 Committee wanted to try that? 10:58
16 CHAIRPERSON: Okay, well, then I suggest what we should
17 do is adjourn to allow you time to set that facility
18 up, and we can then resume to hear Dr. Chughtai's
19 application.
20 10:59
21 So again Committee colleagues, thank you for your
22 patience, and you can go into private session now.
23 And, Alexander, you can let us know when we are ready
24 to proceed.
25 MR. MURRAY: I will do, chair. 10:59
26
27 THE HEARING ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:
28
29 CHAIRPERSON: I believe we have a telephone connection

1 to Dr. Chughtai now established. Dr. Chughtai, can you
2 hear me?

3 DR. CHUGHTAI: Yes, I can hear you.

4 CHAIRPERSON: That's very clear now. So my apologies
5 so you. Earlier your presentation was disrupted by the 11:12
6 signal, so we could will only hear a small part of it.
7 So can I ask that you make your application again
8 please?

9
10 what I heard from you was that you do not have legal 11:12
11 representation, and that's one of the grounds that you
12 are putting forward for requesting an adjournment.

13
14 I understand you have said that you have submitted your
15 phone for forensic analysis, which you expect to have 11:12
16 back in two to three weeks. And once you have that
17 forensic analysis you will issue a defence against some
18 of the allegations which are in front of you.

19
20 You have raised issues in respect of dates when you 11:13
21 were registered with the Medical Council, and the
22 requirement or otherwise to have indemnity cover.

23
24 You have raised the fact that there are three
25 individuals, three doctors that you wish to call, or 11:13
26 you wish to have their evidence heard as part of this
27 inquiry.

28
29 And you have identified there are a number of

1 individuals who you say have inappropriately contacted
2 you.

3
4 So I hope that summarises what you have said, but I am
5 happy to hear from you in full now. Thank you, 11:13
6 Dr. Chughtai.

7 DR. CHUGHTAI: Okay. And there are three more points.
8 One is that, you know, the record of 15th April, there
9 is no date on that document.

10 CHAIRPERSON: okay. 11:13

11 DR. CHUGHTAI: I am just wondering if Ms. Annette Kelly
12 can tell which day, or which day she wrote down that
13 record, because when I remember the meeting, there was
14 nothing, no one was writing anything, it was, I mean
15 like it was not a formal meeting, it was just a coffee 11:14
16 like thing. And what she is telling is totally untrue.
17 So I want her to tell the date of record, not the date
18 of the meeting, date of record.

19
20 And CPD, I have written all institution where I have 11:14
21 worked before to kindly send me internal CPD record.
22 None of them have send me any, you know, e-mail back.
23 There is no CPD record by any HSE hospital for doctor
24 on general registration. So, I mean, that's one of the
25 reasons that, you know -- practically they didn't reply 11:15
26 because they don't have any record.

27
28 So you are asking me to provide a CPD to prove the CPD,
29 but I mean the institutions never kept the record, so I

1 was, I couldn't upload, I finish my external, you know,
2 the teaching part, I entered in all the internal one.
3 And this is an issue that I also want is kind of, that
4 can be discussed later as well, but to be very honest I
5 don't think there will be any e-mail that will come 11:15
6 from any of the institution.

7 CHAIRPERSON: Okay.

8 DR. CHUGHTAI: And definitely the last thing is when I
9 was not registered, the terms and conditions of
10 engagement are not clear, because I was just like a 11:15
11 non-registered member. This is a very important thing,
12 you know. I mean you are sending me e-mail for
13 complaint and I don't know how I will interact, I mean
14 this is a very important thing.

15 CHAIRPERSON: Okay, doctor, I might need you just to 11:16
16 expand on that last point a little bit please so I
17 understand fully what you are saying.

18 DR. CHUGHTAI: What I say, let's suppose if I am
19 registered with IMC with contract then I will sign a
20 document registration document, and we can go back to 11:16
21 the registration document, terms and condition of
22 engagement.

23
24 when I am not registered voluntarily or consensually,
25 and on 10th July you send a complaint, then there is no 11:16
26 agreement between the two parties how they will engage,
27 if you understand what I mean?

28
29 Let's suppose if I start -- I mean you send me a lot of

1 documents, a lot of inappropriate content, which I
2 claim never been sent by me. If you think they were
3 inappropriate, then why you are sending to me without
4 my consent? Are you not harassing me? You should have
5 to take the concern to from me as well, can we send 11:17
6 this document to you? I never said I have sent all
7 these documents. If you do that, that's okay. If you
8 claim I am sending inappropriate, you are not sending
9 me appropriate thing as well, you are also sending me
10 inappropriate thing electronically. 11:17

11 CHAIRPERSON: I think I understand the point you are
12 making, but just a point of clarification, this
13 Committee has not sent you any documentation. This
14 Committee is assembled to hear a case, a series of
15 allegation that the CEO presents and -- 11:17

16 DR. CHUGHTAI: That's what I am saying, the CEO --

17 CHAIRPERSON: So you're saying the CEO has sent you
18 documentation which was inappropriate, I understand?

19 DR. CHUGHTAI: Yes, when I say CEO, I mean each and
20 every IMC, like when I say, Irish Medical Council, I 11:17
21 mean, you know, I received this documentation when I
22 was not registered, I have no legal representation.
23 Now, I am defending without solicitor and barrister,
24 you are not giving me chance to bring the forensic
25 analysis, I mean -- 11:18

26 CHAIRPERSON: No, I understand that point now,
27 Dr. Chughtai. So you are saying that you were not
28 registered and, therefore, this engagement from the CEO
29 was inappropriate because you had not entered into an

1 agreement to be registered, terms and conditions
2 associated with registration. I am sure Mr. McDowell
3 will respond to that point. So I think I have those
4 points that are made.

5
6 As I say, those are the grounds on which you advance
7 for an adjournment. I am going to ask Mr. McDowell in
8 a minute to respond, he has already indicated the CEO
9 opposes strongly the adjournment request.

10
11 Can I ask a few points of clarification, and some of my
12 Committee colleagues may also jump in here also if they
13 need to? You had indicated that you were sick for a
14 period of time, Dr. Chughtai, can I ask you just to
15 clarify the dates that you were in hospital please?

16 DR. CHUGHTAI: The thing is I was --

17 CHAIRPERSON: Approximately, it doesn't need to be the
18 exact date, but just the --

19 DR. CHUGHTAI: June, I went to the hospital in June,
20 and now and then I remain admitted up to November.
21 When I came back, after I received the e-mail from
22 Garda, I came back in, I think, February and I came to
23 visit a Garda, and unfortunately when I came here, the
24 Covid came in, if you remember, I came in February --

25 CHAIRPERSON: So that's June to November 2019?

26 DR. CHUGHTAI: In and out, in and out.

27 CHAIRPERSON: No, I understand, I don't need to pry
28 into your health matters, but I just wanted to get an
29 indication. That's very helpful, Dr. Chughtai. Can I

1 just ask my Committee colleagues if they have any
2 questions or any points of clarification that they
3 would like?

4 MS. DEVINS: No, thank you, chair.

5 CHAIRPERSON: Thank you, Ms. Devins.

11:19

6 DR. DAVIN-POWER: No, thank you, chair.

7 CHAIRPERSON: Thank you, Dr. Davin-Power. At this
8 point -- we have heard your application, Dr. Chughtai,
9 I am going to invite Mr. McDowell to respond to that,
10 and he may pick up some of the points that you have
11 raised. Thank you, Mr. McDowell.

11:20

12
13 SUBMISSION BY MR. McDOWELL:

14
15 MR. McDOWELL: Yes, thank you, chair, so this will be a
16 slightly lengthy submission, and I apologise for that,
17 but I am going to deal with three things.

11:20

18
19 The first thing I am going to deal with are the issues
20 raised by Dr. Chughtai.

11:20

21
22 The second thing I am going to bring you through in, as
23 quick as I can a fashion, I am going to bring you
24 through some of the relevant correspondence and
25 transcripts from previous callovers.

11:20

26
27 And then the third thing I am going to do is outline to
28 you what I say will be the very significant prejudice
29 that would be occasioned, not only to the Chief

1 Executive, but to the complainant and to various other
2 people if this adjournment application is acceded to,
3 and I am hopeful of persuading you that the matter
4 simply has to proceed today.

5
6 So to deal with Dr. Chughtai's points; the most
7 important point in his submission was that he was not
8 registered when he received notice of the complaint
9 made by witness A on the, I think he said 9th July,
10 2019.

11
12 So there are two main things I want to say about that.
13 The first is that, that is not a basis for an
14 adjournment application at all. It is a basis to
15 contest the allegations, or contest the Council's
16 jurisdiction. So I say that no heed should be paid to
17 that in terms of the adjournment application.

18
19 The second thing to say is that it is factually utterly
20 incorrect, Dr. Chughtai was registered when the
21 complaint was made in June of 2019. And pursuant to
22 Section 79 (2) of the Medical Practitioners Act, he
23 could not cease to be registered while there was an
24 extant complaint against him. And he therefore
25 remained on the Register at all times.

26
27 And I can tell the Committee that Dr. Chughtai
28 submitted applications for retention in 2020, 2021 and
29 2022.

1
2 So the suggestion that he wasn't registered and thus
3 the Council doesn't have jurisdiction is factually and
4 legally misconceived.

5
6 I should also say that that is an issue that in the
7 near five year history of this complaint has never been
8 raised on any previous occasion, and that is a period
9 during which at various times Dr. Chughtai has been
10 represented by Michael Staines & Company, Sherwin
11 O'Riordan & Company and Daly Lynch Crowe & Morris,
12 solicitors. And he now says that, I think, he is
13 represented by solicitors in London. So, with the
14 benefit of various eminent legal firms that point has
15 never been made before. So that's the first thing to
16 say.

17
18 Then taking the other point that are raised: In
19 relation to witnesses, it is of course open to
20 Dr. Chughtai to apply to this Committee for witness
21 summonses. He has had a very long time indeed to
22 prepare for this hearing. And if he applies for
23 witness summonses to summons various witnesses from the
24 hospital, or other people before the Committee, the
25 Chief Executive isn't going to take any issue with
26 that. And again it doesn't provide a valid or
27 stateable basis for an adjournment application.

28
29 The third issue raised then is the suggestion that

1 Dr. Chughtai doesn't have legal representation.
2 Dr. Chughtai has been represented, as I said, by
3 various firms of lawyers and by counsel at various
4 callovers previously. And it isn't open to him, in my
5 submission, to discharge lawyers on the eve of 11:23
6 hearings, and in due course I will explain to the
7 Committee that that is a tactic that he has deployed
8 before in order to dislodge hearing dates.

9
10 It was incumbent upon him as a registered professional, 11:23
11 and as somebody facing this inquiry, to ensure that he
12 was adequately prepared and properly represented by the
13 time the hearing dates came around.

14
15 Notwithstanding the fact that he says that he has 11:23
16 instructed a solicitors firm in London to represent
17 him, my solicitors have made various attempts over the
18 last ten days or so to contact those solicitors and
19 have received no response at all.

20 11:24
21 Then Dr. Chughtai raises a question about a memorandum
22 prepared by Annette Kelly of a meeting that took place
23 on 15th April 2016. And it appears that his complaint
24 is that Ms. Kelly -- that he does not know when
25 Ms. Kelly prepared the memorandum. That's an issue 11:24
26 that he is perfectly entitled to explore in
27 cross-examination of Ms. Kelly when she is called to
28 prove that memorandum, but on no basis could it provide
29 a platform to seek an adjournment of the Inquiry. It

1 is an evidential point that Dr. Chughtai wishes to
2 advance, and he is perfectly capable of doing that, and
3 I don't see how an adjournment could follow from that
4 complaint.

5
6 Then there is the question of his contact with CPD
7 organisations regarding his CPD. Again he has had the
8 Notice of Inquiry for just in excess of a year, he has
9 known about the allegations that were going to be made
10 against him, he has been legally represented for nearly 11:24
11 the entire period since then. And he cannot simply at
12 the last minute say that he wants to contact those
13 organisations to obtain evidence from them.

14
15 He hasn't told the Committee when he wrote to them. He 11:25
16 hasn't provided the Committee with evidence that he
17 wrote to them. And he hasn't suggested to the
18 Committee whether or how those organisations would
19 reply in the event that an adjournment was granted.

20
21 The suggestion made then that the CEO or the Medical 11:25
22 Council or their solicitors have sent inappropriate
23 content to Dr. Chughtai without his consent is utterly
24 without merit. The solicitors and the Chief Executive
25 have behaved properly at all times in endeavouring to 11:25
26 communicate with Dr. Chughtai and to furnish him with
27 all relevant documents pertaining to the Inquiry.

28
29 And then the final point he makes is that he wants to

1 submit his phone for forensic analysis. But of course
2 Dr. Chughtai has known since the date on which he
3 received the complaint in July of 2019 that text
4 message that he is alleged to have sent to witness A
5 form a central pillar of the allegations against him. 11:26
6 And it is entirely unsatisfactory that he would this
7 morning tell the Committee that he actually wants to
8 obtain a forensic analysis of his phone. The time for
9 doing that in my submission has long since past.

10
11 So I think I have dealt with all of the points that
12 Dr. Chughtai has raised.

13
14 I then want to move on to providing an abridged history
15 of the matter if I can, and if I skip over details it 11:26
16 is not deliberately, but it is just to give the
17 Committee a flavour of what has happened in the last
18 year or two.

19
20 So, as I said, the complaint was made in June 2019, and 11:26
21 it was referred by the Preliminary Proceedings
22 Committee to this inquiry on 26th January of 2022.

23
24 On 4th October of that year at a callover, the Chief
25 Executive made an application for anonymisation and for 11:26
26 the visibility issue that we discussed earlier in this
27 hearing, and Dr. Chughtai was represented by senior
28 counsel at that callover. And the complaint was made
29 that it was premature to deal with those applications

1 until the CEO had delivered a Notice of Inquiry. And
2 on that basis the applications were not acceded to on
3 that date.

4
5 On 10th March 2023, Dr. Chughtai's then solicitors, so 11:27
6 that's just over a year ago, Dr. Chughtai's then
7 solicitors wrote to the CEO criticising the delay in
8 issuing a Notice of Inquiry.

9
10 And on 11th April last year, the CEO issued a Notice of 11:27
11 Inquiry. So that's just over a year ago.

12
13 On 2nd May, most of the witness statements on which the
14 CEO intends to rely were served on Dr. Chughtai's
15 solicitors. 11:27

16
17 And the following day, 3rd May, the applications for
18 anonymisation, for a remote hearing and for the
19 visibility issue were renewed and acceded to.

20 11:27
21 Then on 6th June, Fieldfisher Solicitors wrote to
22 Dr. Chughtai's solicitors suggesting a hearing date at
23 the end of July of 2023.

24
25 And what followed from then on was a pattern of 11:28
26 correspondence back and forth where Fieldfisher were
27 endeavouring to fix a hearing date for the matter, and
28 various reasons were proffered on the part of
29 Dr. Chughtai as to why it was premature or

1 inappropriate to do so.

2 Matters came to a head on 9th November last year at a
3 callover where a hearing date was fixed for 27th
4 November last year. That was the first occasion on
5 which a hearing date was fixed.

11:28

6
7 Unfortunately it wasn't possible to convene a Fitness
8 to Practise Committee for 27th November, and the matter
9 was thereafter adjourned.

10
11 Another callover took place on 7th February of this
12 year, and the matter was fixed for hearing on 26th
13 February of this year. So that was the second occasion
14 on which a hearing date was fixed.

11:28

15
16 Dr. Chughtai did not instruct his then solicitors to
17 attend at that callover, though they did provide
18 correspondence to Fieldfisher. That correspondence was
19 opened, and in all of the circumstances the Callover
20 Committee fixed the matter for hearing on 26th February
21 of 2024.

11:28

22
23 Then on 20th February 2024, so a week prior to that
24 second hearing date, a Callover Committee was convened
25 and an application was made by Dr. Chughtai's then
26 solicitors to vacate the hearing dates that were
27 assigned for the following week, on the basis that he
28 intended to instruct alternative solicitors and wanted
29 to engage different legal representation.

11:29

11:29

1
2 That application, which was opposed by the Chief
3 Executive, was acceded to by the Callover Committee,
4 and the hearing dates of 26th February were vacated.
5 But the adjournment was granted to Dr. Chughtai on a 11:29
6 preemptory basis by the Callover Committee, on the
7 understanding and the direction that the matter would
8 be fixed for hearing before the end of March of this
9 year, and the Committee was of the view that that would
10 provide Dr. Chughtai with ample time to instruct 11:30
11 alternative lawyers.

12
13 It wasn't possible to convene a hearing date before the
14 end of March of this year, but on 5th March Fieldfisher
15 wrote to Dr. Chughtai's solicitors to state that the 11:30
16 Inquiry would be proceeding on 17th and 18th April of
17 this year. So that letter was sent about six weeks
18 ago.

19
20 On 9th April, which was last Tuesday, Daly Lynch Crowe 11:30
21 & Morris, who were Dr. Chughtai's solicitors, wrote to
22 Fieldfisher to say that they had been discharged by
23 Dr. Chughtai and would not be representing him any
24 further.

25 11:30
26 And then you will have seen Dr. Chughtai's e-mail that
27 was opened to you earlier, and there has been other
28 correspondence with similar content and similar tone
29 over the last week or so.

1
2 So this is the third hearing date that has been set
3 aside for this matter. And it is the second time that
4 at very short notice Dr. Chughtai has deployed an
5 adjournment application.

11:31

6
7 And it is in those circumstances that we say this has
8 gone on for long enough, the matter simply must proceed
9 today. And that having regard, particularly to the
10 fact that the underlying facts in the case commenced in
11 2016, and that the complaint was made in 2019, the
12 interests of justice emphatically and decisively weigh
13 in favour of no adjournment being granted.

11:31

14
15 I then just want to say something about prejudice,
16 because prejudice is an important aspect of any
17 adjournment application.

11:31

18
19 So, as I say, the matter -- the conduct complained of
20 goes back to 2016, and the complaint was made in June
21 of 2019, so nearly five years ago.

11:31

22
23 For the third time the Chief Executive has set aside
24 time to deal with this case, its lawyers have set aside
25 time to deal with this case, and its witnesses have set
26 aside time to deal with this case. And it would be in
27 my submission anathema to the interests of justice for
28 that all to have to take place for a fourth occasion,
29 with all of the cost and inconvenience that goes with

11:32

1 that. And for that reason I say that there would be a
2 very serious prejudice to the CEO if an adjournment
3 were granted.

4
5 But in my submission the prejudice to the CEO would 11:32
6 pail in comparison to the prejudice that would be
7 occasioned to witness A in the event that this matter
8 was adjourned.

9
10 And in that regard I want to open to you a letter that 11:32
11 was sent by witness A to the Chief Executive this
12 morning, and I am going to ask that that be put on the
13 screen if that's possible.

14 MS. HORAN: Sorry, Mr. McDowell, which document is
15 this? 11:33

16 MR. McDOWELL: The word document that's entitled "Dear
17 Medical Council Committee", I hope that it has been
18 uploaded.

19 CHAIRPERSON: So while that is being uploaded or being
20 brought up on the screen, I will just note that we will 11:33
21 reference this as Exhibit 3.

22 MR. McDOWELL: Yes.

23 CHAIRPERSON: Recognising that Exhibit 1 was inter
24 partes correspondence and Exhibit 2 was the signed
25 Notice of Inquiry, which have been upload on the 11:33
26 system.

27 MR. McDOWELL: Thank you.

28 CHAIRPERSON: Thank you.

29 DR. CHUGHTAI: Can I speak now, or do I have to wait a

1 little bit?

2 CHAIRPERSON: I will ask you just to pause one second,
3 Dr. Chughtai, and recognising Dr. Chughtai is by
4 telephone he won't have the ability to see this on the
5 screen, but for the benefit of the Committee. 11:33

6 DR. CHUGHTAI: No, no, I want to say that there are
7 some misleading things that have been said by Mr. Hugh
8 McDowell, so I just want to correct when you finish.

9 CHAIRPERSON: Yes, I will let you respond, thank you.

10 MODERATOR: I can't see that document if it has been 11:34
11 uploaded.

12 MR. McDOWELL: Sorry, I understood that it had been
13 uploaded.

14 MODERATOR: It has just popped up actually.

15 MR. McDOWELL: Great. So it is dated this morning, and 11:34
16 it was received by Fieldfisher this morning, and I will
17 just read it out for Dr. Chughtai's benefit. It says:
18

19 "Dear Medical Council Committee

20 11:34

21 "I have become aware that the Fitness to Practise
22 hearing of Dr Chughtai may once again be postponed
23 today.

24

25 "I am pleading with you, please do not to postpone this
26 case further!

27

28 "As a witness in this case I have been accused of an
29 incredulous amount of terrible things. A complaint has

1 been submitted to both the Medical Council and Gardaí
2 against me. I have been disrespected, intimidated and
3 been victim to numerous false claims...".

4
5 And sorry I should say pause here to say that witness A 11:35
6 is a practising doctor.

7
8 "This week I have had to cancel a compulsory course in
9 a different country. I had booked it months ago and
10 had to cancel it at the last minute despite saying
11 several times I wasn't available on these dates. I
12 have lost a training opportunity and taken a financial
13 loss because of that. I have missed deadlines for a
14 research project this week. I gave my time to
15 preparing for this instead. I am concerned that my end
16 of year assessment affected as a result of this.

17
18 "This case was a major contributing factor to my taking
19 a year out of training. It has been a distraction over
20 the entire course of my medical career and at times
21 been extremely overwhelming. I considered that the
22 period around the case would be distracting and
23 disruptive to my career as I had to concentrate on it,
24 instead of studying, doing research and asking for
25 several days off. Unfortunately that year came and went
26 without the hearing taking place.

27
28 "This has been an extremely stressful and emotionally
29 taxing ordeal. It has affected all aspects of my life.

1 It affects my work and personal relationships. My
2 colleagues have had to reduce operative lists and
3 outpatient appointments. Patients care has been
4 delayed for the third time in the last few months
5 because when their appointment is rescheduled it is
6 hard to reinstate it again when the hearing has been
7 cancelled last minute. I have become more withdrawn
8 socially and cancelled trips and arrangements as a
9 direct result of this case.

10
11 "Five years ago when I considered submitting this
12 complaint I knew it would be hard. I had no idea it
13 would be this hard before it even started. The thing
14 that kept me going was that I could potentially protect
15 someone else from experiencing it. I have lost hope of
16 that. A lot could have happened in the past five
17 years. I am terrified at the thought that a more
18 vulnerable person may have encountered this man and
19 been on the receiving end of some of this behavior.

20
21 "He has had several years to prepare for this hearing
22 and within the last few weeks has brought new
23 accusations more severe in nature in what I believe is
24 a further attempt to harass me and delay this hearing.

25
26 "Furthermore I would like you to consider that once
27 this hearing has ended it may well seem as though a
28 conclusion will come to those involved. It won't for
29 me. It is almost five years since I lodged the

1 complaint. It's been eight years since this harassment
2 started. Since 2016 I live in grave fear of this
3 individual. I always live with the fear that this
4 behavior could continue or worse. As a female I feel
5 threatened by this man. This process has been dragged
6 out for long enough. Over the years, I can see how he
7 becomes more extreme in his reactions. I believe
8 postponing this creates more and more resentment
9 towards me, makes this grievance bigger and bigger.
10 When this process is over let me remind you that I have
11 no reassurances of my safety. I feel very exposed by
12 this process.

13
14 "I am emotionally exhausted. Please do not postpone
15 any further.

16
17 "Kind regards, Witness A."

18
19 And I should say to the Committee that witness A wrote
20 that letter to you entirely of her own volition, it was 11:37
21 not suggested by me or by Fieldfisher that she should
22 do that.

23
24 I was going to make submissions to you that she would
25 be caused prejudice of the type described there, but I 11:37
26 haven't asked her to give you that letter, she has done
27 that of her own choice. And in my submission there is
28 little more that I can say about it. It speaks volumes
29 of the effect this process is having on her and the

1 impact that an adjournment would have on her.
2 an issue that is touched upon in the letter, and I just
3 want to elaborate on slightly, there are two things,
4 two specific things that witness A has done this week
5 in light of this hearing being scheduled.

11:37

6
7 The first is that she cancelled an overseas training
8 that was due to take place tomorrow and to which she
9 was scheduled to fly this evening.

11:38

10
11 The second thing is that patients lists for tomorrow
12 and for today have been shortened in the hospital at
13 which she works as a direct consequence of the fact
14 that this hearing was scheduled, and I am going to come
15 back to that point in due course. But those are very
16 specific measures that she has put in place to appear
17 today and tomorrow to give evidence before you.

11:38

18
19 I should also say that there are other witnesses who
20 have set aside time today and tomorrow to give
21 evidence; one of those individuals is Dr. Flynn, who is
22 a GP, who is going to give expert evidence on behalf of
23 the Chief Executive.

11:38

24
25 For the third time now he has arranged locum cover at
26 his practice in order to permit him to give evidence of
27 an expert kind and to listen in to the case and
28 assimilate the evidence, and the prejudice to him is
29 very obvious of an adjournment being granted.

11:38

1
2 And then there are other medical professionals who are
3 going to give evidence today and tomorrow and whose
4 lists have been shortened, or in respect of whom cover
5 has been arranged in order to ensure that they can give 11:39
6 evidence. And therefore, the granting of adjournment
7 would occasion a very significant prejudice, not only
8 to them, but also to the medical system and patients
9 who rely on it, because of the resourcing issues that
10 are necessitated by this inquiry. 11:39

11
12 So for all of those reasons, I say that the adjournment
13 application is ill-founded without merit, ought to be
14 refused in light of the history of postponed hearings
15 that has taken place in this case. And most 11:39
16 fundamentally, if granted, would give rise to a very
17 serious prejudice for most importantly witness A, but
18 also for the Chief Executive, other witnesses and for
19 the Irish medical system generally. So those are my
20 submissions, chairperson. 11:40

21 CHAIRPERSON: Thank you, Mr. McDowell, that's very
22 clear. And I believe Dr. Chughtai, you would like to
23 respond to some points that Mr. McDowell has made.

24
25 SUBMISSION BY DR. CHUGHTAI: 11:40
26

27 DR. CHUGHTAI: Yeah, the most important thing that he
28 said, I mean I would go with the most important point
29 first. You see there are a lot of new allegations that

1 was included in Core Book, that allegation, I mean I
2 receive in November 2023, I mean there were a lot of
3 new things, that had never been there before, I mean
4 that should be a new complaint, but I don't know how
5 Medical Council include that in a previous complaint,
6 and I only came to know in November, first of all.

11:40

7
8 That new allegation, that's -- I mean I don't have
9 forensic for 2016. I was ready to give my phone for
10 forensic to the police, that can happen freely.

11:41

11 [REDACTED] refused to give her phone. She herself
12 refused to give the phone. That was the reason the
13 forensic analysis did not happen by the Garda. So that
14 should be clear.

11:41

15
16 The new allegation that was put forward by Medical
17 Council, unlawfully by, you know, like that should come
18 a new complaint, but included in the Core Book in
19 November 2023, just recently. And that was a real
20 conflict between me and my legal representatives,
21 because I said these are ridiculous, she is harassing
22 me, not I am harassing her. She is the one who was
23 contacting me, her friends were contacting me in July
24 2023, from January till July, there are multiple
25 incident where she and her friend and a lot of other
26 people who would try to contact me, this happened in
27 2023, and this did not happen until 26th.

11:41

11:41

28
29 And then there was one more point that Mr. McDowell

1 point out, that the complaint was made in June 2019.
2 That is -- I don't know when the complaint was made.
3 The thing that is important, in the Core Book it was
4 9th July that the formal complaint was sent. They may
5 bring a hundred people that, oh, I received a phone 11:42
6 call, I received the e-mail, but the formal complaint
7 was made on 9th July, that is according to the Core
8 Book.

9
10 Now, their solicitor is saying, we will break the 11:42
11 professional competence authority -- I am sorry, this
12 is inappropriate, he is misleading the Committee. I am
13 very clear he is misleading. I receive on 10th July.
14 I never received anything before 10th July. This is
15 prejudice, not to [REDACTED], but to me. My career 11:43
16 has been completely finished. My family life has been
17 completely finished. I am still under threat from
18 [REDACTED]'s friends and family members. My car was
19 burnt on 23rd -- I told very clearly through e-mails
20 that please do not send me e-mails, you are -- I mean I 11:43
21 am getting anxiety and all those issue. Even then when
22 I was, in 2013, October/November, when I was in
23 hospital, I was continuing to receive the e-mail. I
24 came back to Ireland to have a meeting to attend the
25 hearing and they cancelled without giving any reason. 11:43
26

27 And what happened? On the same day my car was burnt, I
28 received a call from a few of the people who were
29 calling me before that if you do not leave the Ireland,

1 we will kill your -- we will burn your house. That's
2 why I left the Ireland in December. I am living with
3 my friend in London. And that's the reason that I
4 couldn't continue, because I told them these new
5 allegation are 100% incorrect. I did not make any 11:44
6 contact. And they were not making any -- I mean they
7 were not making any record. That's the reason I have
8 to discontinue with them, and in order to disprove all
9 of them I have to contact with all of the solicitor
10 here in London, and this is totally prejudice. I gave 11:44
11 them the name of the people I want to subpoena in
12 December. I uploaded the e-mail that I send to their
13 links that these people have contacted me. I have
14 those e-mail and I have those voice recordings and I
15 have those messages from those concerned. 11:44

16
17 I was working in near Cork, and I receive harassment
18 from the Cork hospital. It is not [REDACTED], it is
19 totally incorrect, it is me who is receiving the
20 harassment since 2016, January 2016, through 11:45
21 [REDACTED], her friend, her colleague and Medical
22 Council, Medical Council legal team. They send
23 e-mails, phone calls without consent. My career has
24 ruined. My training has ruined, not her training is
25 ruined, this is totally incorrect. 11:45

26
27 And I think it should be clear that when the complaint
28 was made, I receive first letter on 10th July. And
29 according to the Core Book it was 9th July when that

1 complaint was formally sent, e-mail. If there was
2 communication made, I was never informed of those
3 communication. There is a lot of things that
4 Mr. McDowell try to tell in the last one year, in the
5 last one year; I was told in October 2022 that you will 11:45
6 get, what do you call, nature of complaint in two
7 months. And I get in April. From January till April,
8 I was the one who was subject of harassment and their
9 two witnesses, their statements are totally incorrect.
10 I have a question, that if all these messages, e-mail 11:46
11 from me, why didn't they go to the Garda? why didn't
12 this evidence was given to the Garda, Medical Council,
13 CEO and their witnesses? They have generated fake
14 evidence from January to April. And in order to
15 disprove those allegation I have to do all these 11:46
16 things, forensic analysis. I have submitted money,
17 time, my patient, I work as a GP, and I have to stop
18 working in a GP surgery, I can show you the letter from
19 the patient, not one, at least three or four who are
20 saying that -- I mean, please come back and all those 11:46
21 things. It is my patient who are suffering. They are
22 people who have died because of the harassment of
23 [REDACTED] in Tallaght Hospital.

24
25 And I made a complaint in 2019, but unfortunately 11:47
26 because of the prejudice system of the healthcare
27 system where the people from different races are always
28 being discriminated, I was the one who first made the
29 complaint in March and April 2019. I was the one who

1 made a complaint to the Medical Council. And then
2 [REDACTED] and her friends they start telling me,
3 because of the harassment people have died, they have
4 suffered serious loss, and this thing need to be
5 investigated, and I am happy to cooperate in that
6 regard. 11:47

7 CHAIRPERSON: Thank you, Dr. Chughtai. Once again, I
8 know it is difficult because you are representing
9 yourself, but we have an order that the witness, the
10 complainant not be named. You have named her a couple 11:47
11 of times, I know it sometimes happens inadvertently, so
12 I would like to ask the parties to this public inquiry
13 not to communicate the complainant's name. We are
14 referring to her, and if we can refer to the
15 complainant as Witness A that would be most helpful. 11:48

16
17 So thank you for responding to those points. I think I
18 have captured them all. There was one thing,
19 Dr. Chughtai, you said that a new allegation has been
20 made in November 2023. Your contention is that you 11:48
21 feel that you are being harassed, not the reverse. And
22 you have taken an issue with a date, a complaint date
23 of 9th July, and the first correspondence you received
24 was 10th July 2019.

25 11:48
26 You reference anxiety. You referenced your car being
27 burned. You describe how you are living in London, and
28 that that is why you want to contact legal
29 representatives there. You have given the names of

1 witnesses, which we have heard previously. And you
2 have made your point again that you feel that you have
3 been inappropriately contacted without your consent.
4

5 So, I think, I have got most of the points there that 11:49
6 you have raised. You describe that you have
7 testimonies you can provide from patients. And you
8 allude to racial in the system, which I would like to
9 reassure you, there is no such prejudice in this
10 Fitness to Practise Inquiry. We will deal with 11:49
11 complaints and the substance of the complaints only,
12 regardless of the individuals involved.
13

14 But I will ask Mr. McDowell if you want to respond to
15 some of those points, and specifically the suggestion 11:49
16 that there has been a new allegation made in November
17 2023.
18

19 And if I understand, Mr. McDowell, you said that the
20 Notice of Inquiry was provided to Dr. Chughtai on 11th 11:49
21 April 2023. Has there been a new allegation subsequent
22 to the Notice of Inquiry?
23

24 SUBMISSION BY MR. McDOWELL:
25

26 MR. McDOWELL: Yes, there are two things I wanted to
27 say to the Committee. The first is that on 11th April
28 2019, the Notice of Inquiry issued, and the allegations
29 have not changed since then. And the suggestion that a 11:49

1 new allegation has been introduced into the case in
2 November last year is simply wrong.

3
4 I do also want to say, and I don't want to get into a
5 tennis match with Dr. Chughtai here, but this is a 11:50
6 public hearing, and allegations of a most shocking kind
7 have just been made against witness A. And I would
8 urge upon the Committee to the extent that it can to
9 police Dr. Chughtai in this regard, because it is
10 outrageous that he would say some of the things that he 11:50
11 has said about witness A in the submission just made to
12 you, which have nothing at all to do with the case, are
13 utterly without foundation and could scarcely be more
14 serious.

15 11:50
16 And I think some measure of decorum and solemnity has
17 to be brought to these proceedings, and I think that it
18 behoves Dr. Chughtai to exercise some restraint in some
19 of the things that he is saying.

20 CHAIRPERSON: Thank you, Mr. McDowell. Before you come 11:50
21 in, Dr. Chughtai, just to say I have heard the points
22 you have made, Mr. McDowell. I certainly haven't
23 interpreted some the commentary as being attributed to
24 witness A. I think, well, if I understood Dr. Chughtai
25 correctly, he was making some points to demonstrate his 11:51
26 feeling that he feels harassed, not necessarily
27 attributing that harassment to witness A.

28
29 I think we have heard the evidence. If there is any

1 more new points, Dr. Chughtai, you can come in, but we
2 have heard your points and we have heard Mr. McDowell's
3 points.

4
5 SUBMISSION BY DR. CHUGHTAI:

11:51

6
7 DR. CHUGHTAI: You see the thing is I am saying new
8 evidence has been uploaded to the Core Book, and that
9 claim that something happened in the last two three
10 years, that is totally untrue, and I got a chance to
11 disprove. So that's why, you know, they have
12 introduced new evidence. I can say if they want to
13 change the word from allegation to the evidence, so you
14 can add-on that word, allegation to evidence, new
15 evidence has been brought to the Core Book, and that
16 claim that something happened between 2022, 2023, and I
17 don't know which dates here.

11:51

18 CHAIRPERSON: Okay. Well, certainly this Committee
19 doesn't have the benefit yet of having seen the Core
20 Book or having seen the Notice of Inquiry read to us,
21 so I don't know that it is material to our decision in
22 respect of the adjournment. But I do note your point
23 that you suggest that new additional evidence has come
24 into the correspondence between the parties in
25 November.

11:52

11:52

11:52

26
27 Mr. McDowell is very clear that there has been no
28 change to the allegations. And what I often say to
29 doctors who are facing a Fitness to Practise Inquiry,

1 without representation; as I said at the outset, you
2 come to this Committee, this inquiry, with the
3 presumption of innocence. You don't have to prove
4 yourself to be innocent. We presume that you are
5 innocent. And the onus is on the CEO to make the case 11:52
6 to the criminal standard, which is beyond reasonable
7 doubt.

8
9 So if you can focus on the allegations that are against
10 you in the Notice of Inquiry, that's the substance of 11:53
11 this inquiry. That's the deliberations we will make.
12 We will decide on the basis of the evidence we have
13 heard whether or not these allegations have been proven
14 or not beyond reasonable doubt, if that makes sense.

15 11:53
16 So, I think, with that, I will invite Mr. McGuinness to
17 give the Committee the benefit of his advice in respect
18 of the adjournment application by Dr. Chughtai.

19
20 LEGAL ADVICE BY MR. MCGUINNESS: 11:53
21

22 MR. MCGUINNESS: Thank you, chairman. Obviously the
23 Committee is faced with an application, as is obvious,
24 on the day fixed for the hearing of the Inquiry for an
25 adjournment of the Inquiry. 11:53
26

27 It is of course always within the discretion of a
28 Committee to make an order of adjournment of the type
29 sought, if it is persuaded that there are good and

1 sufficient reasons for doing it.

2 In the context of the general scheme of the Act, I
3 would of course remind the Committee that under Part 8
4 and Section 64 (1)(a)(iii), the doctor against whom a
5 complaint has been made must be given an opportunity to 11:54
6 be present and to defend himself at a hearing and may
7 be represented for that purpose.

8
9 Now, the history given by Mr. McDowell on behalf of the
10 CEO would seem to indicate that Dr. Chughtai has been 11:54
11 given obviously notice of the Inquiry on a number of
12 different occasions. He has had the opportunity to be
13 legally represented, and is not currently legally
14 represented, although he has of course informed you
15 that he has sought to have his phone forensically 11:55
16 examined and would appear to have instructed solicitors
17 in London to do that.

18
19 The relevance of that and the issues that relate to
20 that and the sending of text is a matter for the 11:55
21 Committee to consider, of course.

22
23 The second obvious statutory part of the scheme is
24 Section 65, where at the hearing of a complaint before
25 the Fitness to Practise Committee, it is provided for, 11:55
26 obviously, that the Chief Executive Officer, or any
27 other person, with leave of the Committee, shall (a)
28 present the evidence in support of the complaint, (b)
29 the testimony of witnesses attending the hearing shall

1 be given on oath and (c) there shall be full right to
2 cross-examine witnesses and call evidence in defence
3 and reply.

4
5 So that obviously is a statutory provision sort of 11:56
6 enacted to ensure that the basic rule of natural
7 justice, audi alteram partem, is fulfilled, that the
8 Committee would be empowered to and required to hear
9 both sides, both the evidence led by the Chief
10 Executive Officer and have it tested before the 11:56
11 Committee by the Registrant or his legal advisor.

12
13 It is a matter for the Committee to take into account
14 the detailed submissions made by Dr. Chughtai, and of
15 course the reply and the opposition advanced by 11:56
16 Mr. McDowell in that regard.

17
18 Matters of significance that are relevant to a
19 consideration and a decision in this regard are the
20 fact as to whether this is the first occasion on which 11:57
21 the matter has been listed for hearing, or whether it
22 has been listed on other occasions, whether
23 opportunities have been afforded to put the doctor on
24 full and proper notice of what matters the Committee
25 would be inquiring into, and whether the doctor has had 11:57
26 an adequate time to prepare for the hearing and to be
27 able to participate in it.

28
29 Obviously the doctor has come today without legal

1 representatives. He appears to wish to contest the
2 case fully, it would appear obviously from his
3 submission to the Committee. He is making a claim in a
4 number of respects, which the Committee has to consider
5 in full and adjudicate upon.

11:57

6
7 The issue is essentially a matter for the Committee to
8 decide in aspects of fairness whether there is a real
9 risk of an infringement of any of the doctor's rights
10 if the hearing is to proceed today.

11:58

11
12 Obviously on the other side the issue from the point of
13 view of the CEO is that preparation had been made for
14 the hearing of the matters to be inquired into on a
15 number of occasions, witnesses have been assembled and
16 there is a submission made by Mr. McDowell that a
17 prejudice will ensue both to the CEO but more
18 particularly to the principal witness, the other
19 medical witness, the expert witness, Dr. Flynn, who is
20 listed to give evidence, and the Committee must take
21 all these into account in reaching a decision on the
22 application for an adjournment.

11:58

11:58

23
24 Obviously from the point of view of both parties, my
25 advice to the Committee is it would be important and
26 necessary for the Committee to give its decision in a
27 reasoned way indicating what matters it is taking into
28 account, the weight that it is attaching to them or
29 whether matters aren't in fact relevant to the

11:59

1 application for the adjournment. Obviously
2 Mr. McDowell on behalf of the CEO has made submissions
3 that some matters are not relevant. Dr. Chughtai has
4 had an opportunity to reply to the position of the CEO
5 and has done so, and the Committee must consider 11:59
6 everything that both parties have said in that context.
7 I think that's as much as I can say on the issue.

8
9 Obviously the Committee have power and it has a
10 discretion, it has to exercise it fairly but it has to 12:00
11 exercise it obviously in the circumstances which are
12 presented to it on the day taking into account all
13 relevant matters.

14 CHAIRPERSON: Thank you, Mr. McGuinness, that's very
15 clear and very helpful. Mr. McDowell, do you have any 12:00
16 comments on that legal advice?

17 MR. McDOWELL: No, I think those advices are very clear
18 and I agree with them.

19 CHAIRPERSON: Dr. Chughtai, do you have any comments on
20 Mr. McGuinness' legal advice to the Committee? 12:00

21
22 SUBMISSION BY DR. CHUGHTAI:

23
24 DR. CHUGHTAI: I think the only thing that I would say,
25 he said prejudice thing, I think it will be prejudiced 12:00
26 to me that I won't be able to, you know, cross-examine
27 in the presence of barrister. And the most important
28 thing if I would have a forensic analysis, then that
29 will turn the case completely in one direction.

1 CHAIRPERSON: okay, thank you.

2 DR. CHUGHTAI: And [REDACTED] was given that option to
3 the Garda and --

4 CHAIRPERSON: Sorry, again can I ask you to refer to
5 the complainant as witness A please. 12:01

6 DR. CHUGHTAI: Witness A was given that option that I
7 only came to know but has never been accepted.

8 CHAIRPERSON: We are not dealing with the substance of
9 the complaints at this point in time, we are dealing
10 with your adjournment application. So specifically 12:01
11 Mr. McGuinness has given the Committee advice. I don't
12 believe you have any objection to that advice but you
13 might just confirm that for the record please.

14 DR. CHUGHTAI: Yes, I am not able to comment on any
15 barrister's advice because I am not a legal, you know, 12:01
16 expert.

17 CHAIRPERSON: Thank you. So with that the Committee
18 will retire into private session to consider
19 Dr. Chughtai's adjournment application.

20 MS. DEVINS: Chairman, may I intervene? 12:02

21 CHAIRPERSON: I beg your pardon, Ms. Devins, please.
22

23 QUESTIONING BY THE COMMITTEE:
24

25 MS. DEVINS: Yes, it is just one question for 12:02
26 Mr. McDowell if I may. Good morning, Mr. McDowell. It
27 is in relation to your very useful recital of the
28 history of the case. The complaint -- now, bearing in
29 mind we have not seen the Notice of Inquiry, that's why

1 we are a bit lost when it comes to detail. You
2 indicate the complaint was made in June '19, correct?

3 MR. McDOWELL: That's right.

4 MS. DEVINS: And that the Notice of Inquiry was served
5 on Dr. Chughtai April '23, so nearly four years later, 12:02
6 correct?

7 MR. McDOWELL: That's correct.

8 MS. DEVINS: On what date did the PPC refer the matter?

9 MR. McDOWELL: The 25th January, sorry, the 26th
10 January of 2022. 12:02

11 MS. DEVINS: And between the 26th January '22 and April
12 23 was there any movement in relation to the matter?

13 MR. McDOWELL: well, so I can take further instructions
14 but certainly there was the application in October '22
15 for anonymisation and a remote hearing and so on, and 12:03
16 the basis of the opposition to that was that a Notice
17 of Inquiry had not yet been served and so that
18 happened. I think that as well as that the CEO was
19 obtaining an expert witness to give a report that would
20 in turn inform the allegations contained in the Notice 12:03
21 of Inquiry. So that's all I can say to you off the top
22 of my head but I can take further instructions if an
23 issue arises.

24 MS. DEVINS: And would it be safe to infer that between
25 '19 and '22 because of Covid matters maybe didn't 12:03
26 proceed as they might?

27 MR. McDOWELL: I think that would be safe to infer but
28 in addition to that I should just say two other things.
29

1 Firstly, between the complaint being made in '19 and
2 the referral by the PPC to inquiry in January '22,
3 there was a very significant amount of correspondence
4 back and forth between the Council and Dr. Chughtai and
5 the various firms of solicitors that were acting on his 12:04
6 behalf. So I wouldn't like you to be left with the
7 impression that there were lengthy dormant periods
8 during that time notwithstanding Covid.

9
10 The other point I should make is that Dr. Chughtai with 12:04
11 respect was I think slightly incorrect with his dates
12 earlier on because he suggested to you that he made a
13 complaint about Witness A in April '19 and that Witness
14 A then made a complaint against him in June '19 as
15 though to suggest that her complaint was a retaliation 12:04
16 against him but in fact the reverse is the case. Her
17 complaint was made on 26th June 2019 and on a date in
18 August of 2019, so about two months later, Dr. Chughtai
19 made a complaint against her to the Medical Council and
20 he withdrew it within a month of doing so. So that's 12:05
21 the correct sequence of events there.

22
23 Just my instructions are that the main activities that
24 took place between the referral by the PPC in January
25 of '22 and the Notice of Inquiry in April 2023 were the 12:05
26 obtaining of factual and expert witness statements.

27 MS. DEVINS: Thank you very much.

28 MR. McDOWELL: Thank you.

29 DR. CHUGHTAI: Can I comment on this please?

1 CHAIRPERSON: Yes, please do, Dr. Chughtai.

2
3 SUBMISSION BY DR. CHUGHTAI:

4
5 DR. CHUGHTAI: Yeah, so that's the thing that I raised 12:05
6 earlier, that when you engage someone without a clear
7 terms and conditions, this kind of communication
8 happens. He said that the complaint initially was made
9 on 24th June. I will again try -- I correct it. The
10 first complaint was made by me to Workplace Relations 12:06
11 Commission and then to the Medical Council. I have
12 those complaints and in those complaints I have made, I
13 have made, you know, I have directed how Ms. Dormley
14 [as heard] and [REDACTED] acted. After that
15 complaint, the same day the harassment started from 12:06

16 [REDACTED] Second thing, I again want you --

17 CHAIRPERSON: Dr. Chughtai, can I once again ask you to
18 refer to the complainant as witness A.

19 DR. CHUGHTAI: Complainant, witness A started phone
20 calling and harassing. And then again I would like to 12:06
21 remind him that he says that I mean delay from June --
22 he was taking expert opinion. I have a very important
23 question, the most important thing here was the source
24 of these, you know, the screenshots. The Medical
25 Council was doing everything except the right thing is 12:07
26 to get the electronic evidence or the device to be
27 examined. Neither the Garda nor the Medical Council
28 has done that. And I have a serious concern about that
29 document and I have been given the -- I have handed

1 over the original document that I have, that have, you
2 know, that have get through the, what do you call the
3 you know I have get myself. There has been a fishy
4 thing happening by the Garda, and I am sorry to say
5 that the action of the Medical Council did not help to 12:07
6 get that, you know, didn't help to get assistance with
7 that.

8 CHAIRPERSON: Okay, I think I've got your points there.
9 I think you are making a distinction between a
10 complaint that you first made to the HSE as opposed to 12:08
11 a complaint to the Medical Council. So I don't think
12 you and Mr. McDowell are saying two separate things but
13 what Mr. McDowell is saying very clearly is Complainant
14 A made a complaint on 26th June 2019, you made a
15 complaint in August 2019 and withdrew that complaint 12:08
16 but you are making the point that you made complaints
17 to the HSE, to the hospital system.

18
19 As regards behaviour or otherwise by the Gardaí, that's
20 not a matter that troubles this Committee. This 12:08
21 Committee is a Fitness to Practise Committee hearing
22 into your fitness to practise as a doctor. It is not a
23 criminal matter. But I do note the points you are
24 making.

25 12:08
26 So I think I will just ask if any of my Committee
27 colleagues have any further questions for either party?
28 No. Then we will go into private session and we will
29 hear and consider Dr. Chughtai's adjournment

1 application. We have a very clear understanding of the
2 grounds he has advanced and we have a clear
3 understanding of the arguments that Mr. McDowell makes
4 in opposition to that. So thank you.

12:09

5
6 THE HEARING ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:

7
8 MS. HORAN: Dr. Chughtai?

9 DR. CHUGHTAI: Hello, can you hear me?

10 CHAIRPERSON: I can hear you, Dr. Chughtai, thank you
11 very much for your patience with us. I think we have
12 all parties assembled now so we can deliver the
13 Committee's deliberations in respect of your
14 application.

12:45

15
16 COMMITTEE DECISION:

12:45

17
18 CHAIRPERSON: So I will give you the decision and our
19 reasons for our decision.

20
21 Having carefully considered the application by
22 Dr. Chughtai and the submissions made by Mr. McDowell
23 on behalf of the CEO, the Committee has decided to
24 refuse Dr. Chughtai's application for an adjournment.

12:45

25
26 Our reasons are as follows:

12:45

27
28 1. The Committee is not satisfied that the lack of
29 legal representation is sufficient grounds, as the

1 Registrant has been represented by multiple legal firms
2 until this point and is at liberty to engage additional
3 counsel.

4
5 2. The Committee is of the opinion that the Registrant 12:45
6 has been afforded adequate time to prepare his defence,
7 having received the Notice of Inquiry on 11th April
8 2023.

9
10 3. The Committee is not satisfied that the issue of 12:46
11 forensic analysis of a phone has been demonstrated to
12 be relevant to the Inquiry or to the adjournment
13 application.

14
15 4. It is prejudicial to all parties for this inquiry 12:46
16 to be further adjourned.

17
18 5. An adjournment of an inquiry would significantly
19 prejudice the CEO in that:

20 12:46
21 (a) it delays the completion of this Fitness to
22 Practise Inquiry in a timely manner; and

23
24 (b) the CEO has assembled the witnesses, including an
25 expert witness for this inquiry on several previous 12:46
26 occasions.

27
28 6. The Committee has had regard to the correspondence
29 from witness A requesting the Inquiry proceed today,

1 and note the prejudice that she says she has suffered
2 from previous adjournments.

3
4 7. The Committee has also heard evidence of prejudice
5 to a number of other parties to the Inquiry, including
6 medical practitioners who have had to curtail patient
7 care to support their participation in this inquiry.

12:46

8
9 Hence the Committee has refused the application and we
10 will continue with this inquiry today.

12:47

11
12 That's the decision of the Committee in respect of this
13 application. Does any matter arise, Mr. McDowell?

14 MR. McDOWELL: No.

15 CHAIRPERSON: And Dr. Chughtai?

12:47

16 DR. CHUGHTAI: To be very honest, you know,
17 particularly I cannot cross-examination with these
18 conditions, because the most important thing is --
19 well, I need to cross-examine the three main witnesses,
20 and I have a serious concern about the primary
21 document, the records. And I think it will be
22 prejudice for me that if I continue to engage that I
23 know that you have already made a decision and you are
24 just, you know, like giving out a premeditated
25 decision.

12:47

26 CHAIRPERSON: I understand the point you made and --
27 the Committee has considered that matter carefully.
28 Our decision has been that we will proceed.
29 What I am going to propose -- sorry, doctor?

12:47

1 DR. CHUGHTAI: Can you send me the, because I have to
2 go to the Court, so I need that, you know, you are
3 writing all the things, am I correct?
4 CHAIRPERSON: There is a stenographer recording the
5 business of this inquiry, yes. 12:48
6 DR. CHUGHTAI: Yes, so probably I need that copy so
7 that I can apply to the Court.
8 CHAIRPERSON: Okay, so I am sure the CEO will make the
9 transcript available at the end of each day.
10 MR. McDOWELL: Yes. 12:48
11 CHAIRPERSON: It can be made available to you
12 electronically, Dr. Chughtai, so there is no problem
13 there.
14 DR. CHUGHTAI: Okay, that's what I need. That's okay.
15 Is there anything else? 12:48
16 CHAIRPERSON: Yes, so what we are going to do next is
17 we are going to invite Mr. McDowell to read the
18 relevant Notice of Inquiry. He will then make a
19 statement about how he proposes to present the CEO's
20 case -- 12:49
21 DR. CHUGHTAI: I am not available on this phone, you
22 know, so you can continue with inquiry.
23 CHAIRPERSON: Sorry, you are not available to continue
24 today?
25 DR. CHUGHTAI: Yeah, because I cannot continue with the 12:49
26 phone, you know, going on.
27 CHAIRPERSON: Well, what I was going to suggest was, we
28 will adjourn for lunch for 30 minutes, and perhaps
29 during that time you can make arrangements to have

1 yourself at a place where you can connect via the
2 Trialview system, not via phone.

3 DR. CHUGHTAI: That's -- you try to understand the
4 problem is, let's suppose you have to cross-examine me,
5 okay, and then I have to cross-examine the complainant, 12:49
6 and the complainant is not comfortable to be
7 cross-examined by me. How will that proceed, you know?

8 CHAIRPERSON: We understand there are difficulties
9 there, and we will do our best to make sure that we
10 proceed with the Inquiry in as fair a way as possible 12:50
11 both to the CEO and yourself, Dr. Chughtai.

12
13 It is in everyone's interest that this inquiry commence
14 and come to a conclusion.

15 12:50
16 So what I am going to suggest is we will be taking 30
17 minutes for lunch, so we can break now and perhaps
18 resume -- in fact more than 30 minutes, shall I say we
19 will resume at 1:30. And in that time you can have, it
20 will give you the time to connect via the Trialview 12:50
21 system with a more secure internet connection.

22
23 what I am going to ask when we resume is that
24 Mr. McDowell read the Notice of Inquiry so that the
25 Committee has the benefit of that, to make a statement 12:50
26 about the case that he proposes to present. You will
27 have an opportunity, Dr. Chughtai, to respond, make a
28 short statement in respect of that, but you don't have
29 to. As I say, the onus is on the CEO to prove the case

1 beyond reasonable doubt.

2
3 And finally just to complete my logistics, in case I
4 forget to say it, when we have heard the evidence, the
5 Committee will retire to consider the matters. If we 12:51
6 make findings, those findings will be delivered to you,
7 but if we make findings and we are then required to
8 consider the issue of sanction, that's only if we make
9 findings, the issue of sanction is only relevant in the
10 case that we make findings. 12:51

11
12 Our recommendations in respect of any sanction will not
13 be made at this inquiry, because it is a matter for
14 Council to apply any sanction. But as I say that only
15 occurs if we make findings of fact here. We have -- 12:51

16 DR. CHUGHTAI: The thing is --

17 CHAIRPERSON: -- a body of work to do before we come to
18 that point, but I just wanted to say that, that we
19 would not be making recommendations publicly. We would
20 not be not be disclosing publicly our recommendation in 12:51
21 respect of any sanction, it is just so that I don't
22 forget to say that.

23
24 I hope that makes sense, but, as I say, we have a body
25 of work to do to hear the evidence, and we will keep an 12:52
26 open mind until we have heard the evidence from the
27 CEO.

28
29 Dr. Chughtai, you will be given every opportunity to

1 cross-examine the witnesses and to challenge their
2 evidence.

3 DR. CHUGHTAI: Thank you.

4 CHAIRPERSON: Thank you very much. We are going to
5 adjourn now and we will resume at 1:30, where
6 Mr. McDowell will read the Notice of Inquiry.

12:52

7 MR. McDOWELL: Thank you.

8 CHAIRPERSON: Thank you very much.

9
10 THE HEARING ADJOURNED FOR LUNCH

12:52

1 THE HEARING CONTINUED AFTER LUNCH AS FOLLOWS:

2
3 MR. MURRAY: Just to let you know Dr. Chughtai has not
4 logged back on just yet. I don't know if the TrialView
5 representative can confirm if he has made contact or
6 not with them, but we have haven't heard from him.

13:39

7 MR. McDOWELL: I might be able to be of some assistance
8 to the Committee. At 16 minutes past 1, Dr. Chughtai
9 e-mailed Ms. Horan of the Medical Council to say:

10
11 "I am having chest pain, I am in A&E."

13:39

12
13 And at 18 minutes past 1, he wrote saying:

14
15 "I have chest palpitation. Only thing I would like to
16 include that all screenshots should be excluded and
17 core Garda document aren't available."

13:40

18
19 I am seeing if we can -- I think Ms. Horan is going to
20 upload those on to TrialView so that the Committee can
21 see them.

13:40

22
23 So there is nothing else I can add to that. My
24 instructions are that the Chief Executive is anxious to
25 proceed with this case.

13:40

26 CHAIRPERSON: Thank you for the update, Mr. McDowell.
27 Can I ask Mr. McGuinness perhaps if you have any advice
28 you would like to give to the Committee at this point?

1 LEGAL ADVICE BY MR. McGUINNESS:

2
3 MR. McGUINNESS: Yes, chair. There is an English case
4 referred to in the book, Disciplinary Procedures in the
5 Statutory Professions, 2nd edition, authored by Simon 13:41
6 Mills, Aideen Ryan and Colm Scott-Byrne, and it refers
7 to a line of case law relating to "Hearing in the
8 absence of the Registrant".

9
10 And I know Mr. McDowell has probably seen the leading 13:41
11 case that's set out there, it is a case called R v.
12 Jones and Hayward.

13 MR. McDOWELL: Could I just ask Mr. McGuinness what
14 page you are reading from in that text?

15 MR. McGUINNESS: I am reading from page 231. Now, I am 13:42
16 making the assumption that the message that the doctor
17 has conveyed is indicative that he will not be
18 rejoining the hearing. And maybe Mr. McDowell might
19 just consider through the Chair confirming that that is
20 his belief? 13:42

21 MR. McDOWELL: I think actually -- I think before we
22 keep going, I think the Committee should just see the
23 e-mails, because there is not a lot that I can say
24 that's going to add to the interpretation of them.
25 They speak for themselves. So that's the first e-mail, 13:42
26 you will see that's at 17 minutes past 1.

27 MR. McGUINNESS: Yes.

28 MR. McDOWELL: And then there is a second e-mail. The
29 only observation I make about the second e-mail is that

1 the suggestion in the second sentence appears to me to
2 be that the Committee would -- or Dr. Chughtai appears
3 to be of the understanding that the Committee will be
4 proceeding with the case and that he asks that certain
5 documents would be excluded.

13:43

6 MR. McGUINNESS: Perhaps I would open the passages that
7 are referred to on page 231 of the book, and then I
8 will make reference to some paragraphs in the actual
9 case underlying that.

10
11 The heading at the top of the page is "Hearing in the
12 absence of the Registrant":
13

13:43

14 "There is no obligation on the Registrant to attend all
15 or part of the hearing and the question then arises of
16 whether matters may proceed in the absence of the
17 Registrant. In the English case of Tait v. Royal
18 College of Veterinary Surgeons, the Privy Council
19 approved a test set out in R v. Jones and Hayward of
20 being applicable to statutory professional disciplinary
21 proceedings.

13:43

13:44

22
23 "In Hayward, the Court set out a number of
24 principles...", and I will just pause there to say that
25 that case was decided in the context of criminal law
26 and an accused person being present at a trial or being
27 capable of being tried in his absence, but it has been
28 applied by the Privy Council to professional
29 disciplinary proceedings. And going back to the

13:44

1 principles that were adopted in Hayward, the authors
2 set them out here as follows:

3
4 "(a) a defendant has in general a right to be present
5 at his trial and a right to be legally represented;

13:45

6
7 (b) those rights can be waived separately or together,
8 wholly or in part, by the defendant himself. They may
9 be wholly waived if knowing or having the means of
10 knowledge as to when and where his trial is to take
11 place he deliberately and voluntarily absents himself
12 and/or withdraws instructions from those representing
13 him. They may be waived in part, if being present and
14 represented at the outset, the defendant during the
15 course of the trial behaves in such a way as to
16 obstruct the proper course of the proceedings or
17 withdraws the instructions from those representing him;

13:45

13:45

18
19 (c) the trial judge has a discretion as to whether a
20 trial should take place or continue in the absence of a
21 defendant and/or his legal representatives;

13:45

22
23 (d) that discretion must be exercised with great care,
24 and it is only in rare and exceptional cases that it
25 should be exercised in favour of a trial taking place
26 or continuing, particularly if the defendant is
27 unrepresented;

13:45

28
29 (e) in exercising that discretion, fairness to the

1 defence is of prime importance, but fairness to the
2 prosecution must also be taken into account. The judge
3 must have regard to all the circumstances of the case,
4 including, in particular:

5
6 (i) the nature and circumstance of the Defendant's
7 behaviour in absenting himself from the trial, or
8 disrupting it as the case may be, and in plain, in
9 particular, whether his behaviour was deliberate,
10 voluntary or such as plainly waived his right to
11 appear;

13:46

12
13 (ii) whether an adjournment might result in the
14 defendant being caught or attending voluntarily and/or
15 not disrupting the proceedings;

13:46

16
17 (iii) the likely length of such an adjournment;

18
19 (iv) whether the defendant, though absent, is or wishes
20 to be legally represented at the trial, or has by his
21 conduct waived his right to representation;

13:46

22
23 (v) whether an absent defendant's legal representatives
24 can receive instructions from him during the trial and
25 the extent to which they can present his defence;

13:46

26
27 (vi) the extent of the disadvantage to the defendant in
28 not being able to give his account of events in regard
29 to the nature of the evidence against him;

13:46

1 (vii) the risk of the jury reaching an improper
2 conclusion about the absence of the defendant;

3
4 (viii) the seriousness of the defence which affects the
5 defendant, the victim and the public;

13:47

6
7 (ix) the general public interests of the particular
8 interest of victims and witnesses that a trial should
9 take place within a reasonable time of the events to
10 which it relates;

13:47

11
12 (x) the effect of delay on memories of witnesses;

13
14 (xi) where there is more than one defendant and not all
15 of them absconded, the undesirability of separate
16 trials and the prospect of a fair trial for the
17 defendants who are present.

13:47

18
19 (f) If the judge decides that a trial should take place
20 or continue in the absence of an unrepresented
21 defendant, he must ensure that the trial is as fair as
22 the circumstances permit. He must in particular take
23 reasonable steps, both during the giving of the
24 evidence and in the summing up to expose weaknesses in
25 the prosecution case, or to make such points on behalf
26 of the defendant as the evidence permits. In summing
27 up, he must warn the jury that absence is not an
28 admission of guilt or adds nothing to the prosecution
29 case."

13:47

13:48

1 Now, there is another paragraph in the text on page
2 233, headed "Involuntary absence". And this says at
3 paragraph 798:

4
5 "Where the Registrant is absent for a hearing, other 13:48
6 than for reasons of his own choosing, the Inquiry may
7 have to exercise caution in deciding whether to
8 proceed."

9
10 And this refers then to a case called Al-Zayyat: 13:48
11

12 "Where the fitness to practise panel of the GMC reached
13 a decision that a doctor had voluntarily and
14 deliberately absented herself from her misconduct
15 hearing. 13:48

16
17 "Accordingly, it proceeded with an inquiry in her
18 absence into allegations relating to her examination of
19 a baby." 13:49

20
21 The fact are then gone into. The decision of the panel
22 was quashed, as perverse, on the basis that there was
23 no evidence on which the panel could have reached the
24 conclusion that it had reached in that particular case.
25

26 Now, I did say that in the Jones case, there is a
27 paragraph, or two paragraphs which relate to this issue
28 also, and I am just going to read those two paragraphs.
29 And to make it clear, just for the transcript, this is

1 the judgment of the Court of Appeal, Civil Division in
2 England in a case called General Medical Council v.
3 Adeogba, joined with another case, concerning the
4 jurisdiction of the Medical Council there to proceed in
5 the absence of a Registrant.

13:50

6
7 And at paragraph 13, the Court there adopts the
8 principles which I have read out in the Jones case, but
9 there is one paragraph that the Committee may well feel
10 to be of some relevance here, which is paragraph 14,
11 and it reads as follows:

13:50

12
13 "The decision in relation to the second of the three
14 cases then considered by the court was the subject of
15 further appeal to the House of Lords where Lord Bingham
16 (with whom Lord Nolan, Lord Hoffmann, Lord Hutton and
17 Lord Rodger agreed) approved the guidance set out above
18 (with the specific exception of that contained in
19 [22(5)(viii)]) and emphasised, at [6], that the
20 discretion to continue in the absence of a defendant
21 should be 'exercised with great caution and with close
22 regard to the overall fairness of the proceedings'.
23 Lord Bingham observed that if attributable to
24 involuntary illness or incapacity it would very rarely
25 'if ever' be right to exercise discretion in favour of
26 commencing the trial unless the defendant is
27 represented and asks that the trial should begin. As
28 for the guidance, Lord Bingham considered it 'generally
29 desirable' that a defendant be represented even if he

1 had voluntarily absconded but also made it clear (at
2 [14]):

3
4 "'I do not think that 'the seriousness of the offence,
5 which affects defendant, victim and public'... is a
6 matter which should be considered. The judge's
7 overriding concern will be to ensure that the trial, if
8 conducted in the absence of the defendant, will be as
9 fair as circumstances permit and lead to a just
10 outcome. These objects are equally important, whether
11 the offence charged be serious or relatively minor'."

12
13 So, Committee, there is obviously an issue for the
14 Committee to decide now whether it will exercise its
15 power or discretion to commence and continue with the
16 proceedings in the absence of the Registrant at
17 present.

13:52

18
19 On one view, it is a matter of interpretation,
20 obviously, of the e-mail as to whether the doctor did
21 envisage that it would continue in his absence by
22 reason of the inclusion of the matters that he would
23 wish the Committee not to hear. And that's a matter
24 that the Committee may decide, it should first make its
25 decision about is that what it means reasonably.

13:52

13:53

26
27 The second issue then, obviously, is a matter for the
28 CEO perhaps to express a view on, which is that, and
29 this is an assumption on my part, that witness A's

1 evidence was intended to cover issues relating to
2 screenshots of messages at certain points. And it
3 raises the issue as to whether the CEO is either
4 prepared to proceed with witness A, with or without the
5 screenshots or not.

13:53

6
7 And obviously that would be a separate issue for the
8 Committee to consider, whether if it did reach the
9 conclusion that the doctor him implicitly envisaged the
10 continuation of the proceedings, whether it would give
11 effect to his request to exclude those matters, as well
12 as the reference to the Garda investigations in the
13 Core Book.

13:53

14
15 So, chair, that's my advice at present, subject to any
16 other issue that might be raised at this point.

13:54

17 CHAIRPERSON: Thank you very much, Mr. McGuinness,
18 that's very helpful. Mr. McDowell, do you have any
19 comments on that advice?

13:54

20
21 SUBMISSION BY MR. McDOWELL:

22
23 MR. McDOWELL: Yes, I am going to make some submissions
24 to you about the position that the Committee is faced
25 with. But before I do that, I agree with the advice
26 that Mr. McGuinness has given, but I do want to draw
27 your attention, Committee members, to further
28 paragraphs in the Adeogba case that Mr. McGuinness read
29 from, which the Committee may or may not regard as

13:54

1 being relevant to the position that is before you
2 today.

3
4 So the principles annunciated in the Mills book that
5 were read out are principles which flow from a decision 13:54
6 called Jones and Hayward, which, as was observed, was a
7 criminal case. And then at paragraph 14, the judgment
8 recites that when the House of Lords considered one of
9 those appeals, the view was given that:

10
11 "It would very rarely, if ever, be right to exercise
12 discretion in favour of commencing a trial unless the
13 Defendant was represented, and ask for the trial to
14 begin."

15
16 And that was in circumstances of involuntary illness or
17 incapacity.

18
19 At paragraph 17 of the judgment in Adeogba, the Court
20 then goes on to say: 13:55

21
22 "In my judgment, the principles set out in Hayward, as
23 qualified and explained by Lord Bingham in Jones,
24 provide a useful starting point for any direction that
25 a legal assessor provides and any decision that a Panel
26 makes under Rule 31 of the 2004 Rules. Having said
27 that, however, it is important to bear in mind that
28 there is a difference between continuing a criminal
29 trial in the absence of the defendant and the decision

1 under Rule 31 to continue a disciplinary hearing. This
2 latter decision must also be guided by the context
3 provided by the main statutory objective of the GMC,
4 namely, the protection, promotion and maintenance of
5 the health and safety of the public as set out in s.
6 1(1A) of the 1983 Act. In that regard, the fair,
7 economical, expeditious and efficient disposal of
8 allegations made against medical practitioners is of
9 very real importance."

10
11 Then paragraph 18:

12
13 "It goes without saying that fairness fully encompasses
14 fairness to the affected medical practitioner (a
15 feature of prime importance) but it also involves
16 fairness to the GMC. In that regard, it is important
17 that the analogy between criminal prosecution and
18 regulatory proceedings is not taken too far. Steps can
19 be taken to enforce attendance by a defendant; he can
20 be arrested and brought to court. No such remedy is
21 available to a regulator.

22
23 "There are other differences too. First, the GMC
24 represent the public interest in relation to standards
25 of healthcare. It would run entirely counter to the
26 protection, promotion and maintenance of the health and
27 safety of the public if a practitioner could
28 effectively frustrate the process and challenge a
29 refusal to adjourn when that practitioner had

1 deliberately failed to engage in the process. The
2 consequential cost and delay to other cases is real.
3 Where there is good reason not to proceed, the case
4 should be adjourned; where there is not, however, it is
5 only right that it should proceed.

6
7 "Second, there is a burden on medical practitioners, as
8 there is with all professionals subject to a regulatory
9 regime, to engage with the regulator, both in relation
10 to the investigation and ultimate resolution of
11 allegations made against them. That is part of the
12 responsibility to which they sign up when being
13 admitted to the profession.

14
15 "Third, in relation to medical practitioners, it is
16 significant that, it is the duty of the Registrar to
17 keep the registers correct and to make the necessary
18 alterations in the addresses, qualifications and other
19 registered particulars of registered persons."

20
21 And that paragraph deals with issues that don't arise
22 in this case.

23
24 So the reason I draw that to your attention is to say
25 that what I say the effect of those paragraphs is, is
26 to distinguish between proceeding in the absence of an
27 accused person in a criminal case on the one hand, and
28 proceeding in the absence of a registered professional
29 in professional disciplinary proceedings on the other

13:57

1 hand.

2
3 But all of that being said, the difference is probably
4 attenuated somewhat when you are dealing with a
5 situation where the Registrant is absent involuntarily 13:58
6 or for reasons of ill-health.

7
8 Then turning to the e-mails received, I am obviously
9 not in a position to challenge what is said in those
10 e-mails, but I don't think the Committee can overlook 13:58
11 the context in which those e-mails were received, which
12 is that a very wide range of matters were raised this
13 morning to attempt to justify an adjournment, the third
14 adjournment of this case. And when all of those
15 arguments were rejected, it is only at that stage that 13:58
16 it appears that Dr. Chughtai's health meant that he
17 couldn't attend at the hearing.

18
19 Now, obviously, as I said, I can't challenge the
20 veracity of what he has said, but the timing is in some 13:58
21 ways extraordinary.

22
23 I think that Mr. McGuinness is correct to say that the
24 Committee has to initially make a decision as to
25 whether it is treating the e-mail as being an 13:59
26 application for an adjournment or not.

27
28 If it is treating it as an application for an
29 adjournment, I am ultimately -- the CEO is ultimately

1 in the Committee's hands, he is anxious to proceed with
2 this case. And it would be normal, in circumstances
3 such as this, for an adjournment on health grounds to
4 be justified by cogent objective medical evidence that
5 would be put before the Committee.

13:59

6
7 Now, saying that, this appears to be, if we are taking
8 the e-mails in good faith, this appears to be a kind of
9 emergency situation.

10
11 If on the other hand the Committee is taking
12 Dr. Chughtai's e-mails to suggest that he is happy for
13 the Inquiry to proceed, subject to certain conditions
14 on how it might proceed, I have to say at the outset
15 that I am not prepared to proceed with Witness A's
16 evidence in the absence of the screenshots that
17 Dr. Chughtai refers to, because those screenshots are
18 the single most critical piece of evidence in the case,
19 and the case can't proceed without them.

13:59

13:59

20
21 Witness A is in a position to prove them, and will give
22 detailed evidence about them. And it simply wouldn't
23 be possible to hear the case, or for me to prove the
24 case in the absence of those screenshots.

14:00

25
26 So I have to say that I am not prepared to -- I don't
27 think I could be asked to proceed with the case with
28 that evidence excluded.

14:00

1 So ultimately it is a matter for the Committee. Two
2 days have been set aside this week to hear the case and
3 for all the reasons I set out this morning, it is, we
4 say, in the interests of justice for the matter to be
5 heard this week and I think that's as far as I can put 14:00
6 it. I am going to check if Ms. O'Sullivan has anything
7 to say. No, I think that's fine.

8 CHAIRPERSON: Thank you very much for that,
9 Mr. McDowell. There is one point that strikes me that
10 you might be able to assist us with, which is a 14:01
11 reference to, if I can find the e-mail now, "and core
12 Garda document". Do you know what reference that is?

13 MR. McDOWELL: So part of the evidence that I am going
14 to present to the Committee, and there will be Garda
15 witnesses called to prove some of this evidence, will 14:01
16 be statements given by witness A to the Gardaí and
17 statements given by Dr. Chughtai to the Gardaí. We
18 included those statements in an initial Core Book that
19 was provided to Dr. Chughtai and for reasons that
20 weren't precisely clear, he objected to their inclusion 14:01
21 in a Core Book and we sort of acceded to that objection
22 and we have stored, we have sort of stored the Garda
23 statements in a separate book and our plan was to prove
24 them in the ordinary way and present them in evidence.
25 So -- and I mean for the same reasons, I am not 14:01
26 prepared to agree to the hearing taking place without
27 the Garda statements.

28 CHAIRPERSON: That's very helpful, thank you very much.
29 Just we didn't have the advantage of the Core Book or

1 the Notice of Inquiry before us. So that's very
2 helpful. Committee colleagues, any questions for
3 either Mr. McGuinness on his advice or follow-up
4 questions to Mr. McDowell?

14:02

6 QUESTIONING BY THE COMMITTEE:

7
8 DR. DAVIN-POWER: I would like to ask Mr. McGuinness I
9 suppose what -- if we were to proceed, this is day one,
10 there is also day two and it may well be that
11 Dr. Chughtai has recovered by tomorrow, is there any
12 useful evidence that we can hear today in
13 Dr. Chughtai's absence and then maybe catch up with the
14 rest of it tomorrow to make best use of the time were
15 we to proceed?

14:02

14:02

16
17 LEGAL ADVICE BY MR. MCGUINNESS:

18
19 MR. MCGUINNESS: If I might respond first, I am not
20 obviously myself in a position to know what material
21 Mr. McDowell could present to make use of the time. He
22 may well feel that he could start witness A's evidence.
23 On the other hand I had recent experience of a Viamedia
24 course being taken by another Fitness to Practise
25 Committee whereby the Registrant did not appear
26 recently. He was represented by a solicitor and the
27 solicitor asserted that he was in hospital, was
28 suffering from a certain very serious condition and was
29 being treated for it in a way which affected his mood,

14:03

14:03

1 his mental health and his bodily functions to some
2 degree as well. Now, that solicitor hadn't obtained
3 medical evidence saying what his client was in hospital
4 for but the Fitness to Practise Committee adjourned
5 until the afternoon and in the short interim between 14:04
6 the morning and the afternoon it was possible to prove
7 definitively to the Fitness to Practise Committee that
8 the doctor was in fact in hospital, and the Committee
9 on that occasion regarded it as a genuine absence
10 rather than a voluntary decision not to further 14:04
11 participate and put the matter back.

12
13 I only raise the issue of this recent example to
14 suggest that either the Chief Executive Officer and/or
15 the Committee might consider a viamedia of one of two 14:04
16 different things or the two different things together,
17 which is the possibility of proceeding with some
18 evidence and/or adjourning the matter until tomorrow on
19 notice to the doctor and notifying him of the intention
20 to continue the Committee tomorrow depending perhaps 14:05
21 upon whether there was medical evidence of a
22 substantial nature in the matter which might assist the
23 Committee in coming to a decision one way or the other.
24 So that's a possibility that the Committee might wish
25 to consider as a way of proceeding. 14:05

26
27 SUBMISSION BY MR. McDOWELL:

28
29 MR. McDOWELL: If I could maybe interject just to say a

1 couple of things. So one option, if the Committee
2 wanted to use the afternoon efficiently, one option
3 would be for me to open the case and at that stage
4 adjourn to tomorrow morning. Opening the case will
5 take me half an hour or less maybe. And then -- but my 14:05
6 application, I suppose I should just say at this
7 juncture that if that's the course of action taken, I
8 am sure that my position will be in the morning that
9 unless the Committee if provided with very cogent
10 evidence to justify Dr. Chughtai's absence, it should 14:06
11 proceed whether he is here or not. I suspect that will
12 be my position in the morning.

13
14 The other option would be for me to open the case and
15 then commence witness A's evidence on the basis that a 14:06
16 transcript of today will be provided. Her
17 examination-in-chief will certainly go beyond today and
18 then Dr. Chughtai would have the opportunity if he
19 wanted to review the transcript this evening and he
20 wouldn't be at any serious disadvantage when it came to 14:06
21 his cross-examination of witness A.

22
23 So those two options to my mind are the -- I should say
24 that I don't think that the idea of calling any other
25 witness at this stage makes sense. Firstly, they are 14:06
26 not available; secondly, in my view it is important
27 that the first witness you hear is witness A; and
28 thirdly, all the other witnesses are shorter and then
29 we would be faced with the fact that I have finished

1 that witness and Dr. Chughtai wouldn't be here to
2 cross-examine them.

3
4 So I think that the two options I have suggested are --
5 sorry, the third option which I suppose I am not in
6 favour of but just for completeness is just that we
7 would adjourn now until tomorrow. But I think that
8 the -- I don't think that's a good idea because at the
9 very least I could open the case.

14:07

10 CHAIRPERSON: Thank you very much, Mr. McDowell, that's
11 very helpful. Any further follow-ups, Dr. Davin-Power?

14:07

12 DR. DAVIN-POWER: No, that's very clear, thank you.

13 CHAIRPERSON: Thank you. And, Ms. Devins, do you have
14 any questions?

15 MS. DEVINS: Not really a question, chairman, but I
16 wonder if any further discussion might be better done
17 in the private room? I am just aware that any further
18 comment might be inappropriate in the public hearing
19 room.

14:07

20 CHAIRPERSON: well, you have anticipated, I was going
21 to suggest that we retire into private session now to
22 consider the information that is before us. Obviously
23 we wish Dr. Chughtai well and if he is in an emergency
24 situation, that he gets all the care he needs. But we
25 will retire into private session now and we will
26 consider the matters and we will return duly and advise
27 the parties, thank you.

14:08

28
29 THE HEARING ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:

1
2 COMMITTEE DECISION:

3
4 CHAIRPERSON: Okay well I think we will just give you
5 the update, Mr. McDowell. We have given careful
6 consideration to the matter and clearly the health
7 concerns raised by Dr. Chughtai are significant and we
8 wish him well.

14:28

9
10 We think that it would be appropriate for you -- for us
11 to proceed with some caution, that it would be
12 appropriate for you to open the Notice of Inquiry so
13 the Committee has the benefit of hearing that. That
14 you outline the case that you are proposing to present
15 on behalf of the CEO. And that you commence with
16 Witness A, with caution, in the knowledge that the
17 transcript will be made available to Dr. Chughtai.

14:28

14:29

18
19 Obviously if any prejudice arises that we spot as a
20 Committee, or indeed Mr. McGuinness we will intervene,
21 and we will immediately suspend hearing the evidence if
22 any such prejudice becomes evident to us.

14:29

23
24 We would invite the CEO to make contact, if possible,
25 with Dr. Chughtai to seek cogent medical evidence to
26 support his absence. We understand that might be
27 difficult if he is in an emergency situation, but any
28 documentary evidence that he can provide to give
29 reassurance to the Committee would be much appreciated.

14:29

1 And then we will continue with the Inquiry tomorrow, we
2 presume that you will not have all of witness A's
3 evidence heard this evening, that you will need to
4 continue tomorrow, and we can adjourn before we hear
5 the continuation of witness A's evidence to see if
6 there is any update from Dr. Chughtai.

14:30

7
8 And in any case, when you have completed witness A's
9 evidence, we may have to adjourn if he is not available
10 to continue the cross-examination. So I hope that
11 makes some sort of sense. We understand and we are
12 sympathetic, the CEO's hands are tied, you have little
13 information to go on as we do. But the overarching
14 point is we wish Dr. Chughtai well, but we feel it is
15 appropriate to proceed with caution.

14:30

16 MR. McDOWELL: Thank you very much, chairperson and
17 Committee members, and I am grateful to you.

18
19 So I am going to begin by opening the Notice of
20 Inquiry, which I think has already been admitted as
21 Exhibit 2 or Exhibit B to the Inquiry. And that's
22 behind -- sorry, I take it that nobody has a Core Book,
23 or do the Committee members have the Notice of Inquiry?

14:30

24 CHAIRPERSON: We have the Notice of Inquiry, signed
25 Notice of Inquiry only.

14:31

26
27
28
29 NOTICE OF INQUIRY:

1 MR. McDOWELL: Very good. So you will see it is
2 addressed to Dr. Hassaan Affa Beg Chughtai at an
3 address in Letterkenny. And it says:

4
5 "Whereas:

14:31

6
7 "1. The Preliminary Proceedings Committee has formed
8 the opinion that there is a prima facie case to warrant
9 further action being taken in relation to the complaint
10 of Witness A.

11
12 2. The Preliminary Proceedings Committee has referred
13 the complaint to the Fitness to Practise Committee on
14 the grounds of poor professional performance and/or
15 professional misconduct and/or a contravention of a
16 provision of the Medical Practitioners Act 2007
17 (including a provision of any regulations or rules made
18 under this Act)."

19
20 And then the allegations are set out, and they are as
21 follows:

22
23 "1. On one or more occasions during the period between
24 in or around June 2016 and in or around July 2016,
25 attempted to make contact and/or contacted and/or
26 attempted to approach and/or approached Witness A in
27 circumstances where you knew or ought to have known
28 that:

1 i. This was inappropriate and/or this was not in
2 connection with your employment; and/or

3
4 ii. This was unwanted and/or uninvited, and/or that on
5 or around 15 April 2016, you had been requested by one
6 or more members of staff and/or the Medical Manpower
7 Manager at Mayo University Hospital ('the Hospital')
8 not to contact and/or approach Witness A; and/or

9
10 2. Notwithstanding one or more request(s) made by
11 one or more members of staff and/or the Medical
12 Manpower Manager at the Hospital on or around 15 April
13 2016 not to contact and/or approach Witness A, on one
14 or more occasions during the period between in or
15 around 31 March 2017 and in or around 1 April 2017,
16 you sent one or more text messages and/or Whatsapp
17 messages and/or made one or more phone calls to Witness
18 A, in circumstances where you knew or ought to have
19 known this was inappropriate and/or unwanted; and/or

20
21 3. Notwithstanding one or more request(s) made by one
22 or more members of staff and/or the Medical Manpower
23 Manager at the Hospital on or around 15 April 2016
24 not to contact and/or approach Witness A and/or a
25 request(s) made by Witness A on or around 1 April
26 2017 not to contact her, on one or more occasions
27 during the period between in or around 7 July 2017
28 and in or around 20 May 2019, you sent one or more
29 text messages and/or Whatsapp messages and/or made one

1 or more phone calls to Witness A, in circumstances
2 where you knew or ought to have known it was
3 inappropriate and/or unwanted; and/or
4

5 4. Notwithstanding one or more request(s) made by one
6 or more members of staff and/or the Medical Manpower
7 Manager at the Hospital on or around 15 April 2016
8 not to contact and/or approach Witness A and/or a
9 request(s) made by Witness A on or around 1 April
10 2017 not to contact her, on one or more occasions
11 during the period between in or around 18 May 2019
12 and in or around 20 May 2019, you sought to meet
13 Witness A, in circumstances where you knew or ought
14 to have known it was inappropriate and/or unwanted;
15 and/or
16

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

1
2 6. On or around 1 April 2017, sent one or more text
3 messages and/or Whatsapp messages to Dr Claire Cullen
4 for the purposes of trying to establish contact with
5 Witness A, in circumstances where you knew or ought to
6 have known it was inappropriate and/or unwanted; and/or
7

8 7. On or around 22 January 2020, sent one or more
9 text messages and/or Whatsapp messages to Mr Shane
10 Russell for the purposes of trying to establish contact
11 with Witness A, in circumstances where you knew or
12 ought to have known it was inappropriate and/or
13 unwanted; and/or
14

15 8. Failed to comply with the Medical Council's
16 professional competence requirements in respect of the
17 following professional competence periods and in doing
18 so you contravened Section 94(1) and/or (2) of
19 the Medical Practitioners Act 2007 and/or Rule 1 and/or
20 Rule 2 and/or Rule 4 and/or Rule 5 of the Rules for the
21 Maintenance of Professional Competence (No.1) (S.I. 171
22 of 2011):
23

- 24 i. 01 May 2015 to 30 April 2016; and/or
25 ii. 01 May 2016 to 30 April 2017; and/or
26 iii. 01 May 2017 to 30 April 2018; and/or
27 iv. 01 May 2018 to 30 April 2019; and/or
28 v. 01 May 2019 to 30 April 2020.
29

1 "And further take notice that on the ground of
2 professional misconduct it is alleged that:

3
4 A. In respect of one or more of the allegations and/or
5 sub-allegations at 1-8 above, individually and/or in
6 combination and/or cumulatively, you engaged in conduct
7 which doctors of experience, competence and good repute
8 consider disgraceful or dishonourable; and/or

9
10 B. In respect of one or more of the allegations and/or
11 sub-allegations at 1-8 above, individually and/or in
12 combination and/or cumulatively, you engaged in conduct
13 connected with your profession in which you seriously
14 fell short by omission or commission of the standards
15 of conduct expected among doctors.

16
17 "And take note that on the ground of poor professional
18 performance it is alleged:

19
20 C. In respect of the allegation and/or sub-allegations
21 at 8 (i) - (v) above, individually and/or in
22 combination and/or cumulatively, you failed to meet the
23 standards of competence (whether in knowledge and skill
24 or the application of knowledge and skill or both) that
25 can reasonably be expected from a registered medical
26 practitioner practising medicine of the kind practised
27 by you; and/or

28 And further take note that it is alleged:
29

1 D. In respect of the allegation and/or sub-allegations
2 at 8 (i) - (v) above, individually and/or in
3 combination and/or cumulatively, you contravened one or
4 more provisions of the Medical Practitioners Act 2007,
5 as amended and/or one or more provisions of the
6 regulations and/or rules made under this Act."

7
8 And then you will see that that's signed by Mr. Kearns,
9 who is the Chief Executive Officer, and it is dated
10 11th April 2023.

14:36

11
12
13 OPENING STATEMENT BY MR. McDOWELL:

14
15 MR. McDOWELL: So, Committee members, in essence there
16 are two limbs to the case. The first limb relates to
17 witness A, and that covers -- that's covered by
18 Allegations 1 to 7. And in respect of those
19 allegations, we say that they individually amount to
20 professional misconduct.

14:36

14:37

21
22 Then the second limb is contained at Allegation 8, and
23 that's to do with CPD maintenance. And we say that in
24 respect of that allegation there is professional
25 misconduct, poor professional performance and a breach
26 of a provision of the Act or regulations made under the
27 Act.

14:37

28
29 So they are two quite separate and distinct limbs to

1 the case.

2
3 In terms of the evidence you are going to hear,
4 Committee members, I am just going to give you an
5 outline of that evidence now. The first witness you 14:37
6 are going to hear is the complainant in the case,
7 that's witness A, and her evidence will be quite long
8 and quite detailed.

9
10 You will hear evidence from Claire Cullen and Shane 14:37
11 Russell, who are also medical practitioners, and they
12 are referred to at Allegations 6 and 7 of the Notice of
13 Inquiry respectively. They are former colleagues of
14 Dr. Chughtai and witness A.

15 14:38
16 You will hear from Dr. Tom Lee, who is a consultant in
17 Mayo University Hospital, who worked with Dr. Chughtai
18 and witness A in the first half of 2016.

19
20 You will hear from Annette Kelly, who is the Medical 14:38
21 Manpower Manager at Mayo University Hospital during
22 that same period, the first half of 2016.

23
24 You will hear evidence from two Garda witnesses,
25 Saoirse Noonan and Kevin McPartlan, and they are going 14:38
26 to prove statements given by witness A and Dr. Chughtai
27 to the Gardaí.

28
29 Then in relation to the -- so all of that evidence

1 concerns the witness A limb of the case, Allegations 1
2 to 7.

3 And then in relation to the CPD limb of the case,
4 that's Allegation 8, you will hear evidence from Dara
5 Kavanagh from the RCSI, D-a-r-a, and Deirdre Donegan 14:39
6 from the RCPI, and they are going to give evidence
7 about the records that they hold in relation to
8 Dr. Chughtai's CPD maintenance.

9
10 And you will hear evidence from Sam Kendon Hobbs, who 14:39
11 is an employee of the Medical Council who deals with
12 CPD.

13
14 Then the final witness will be Dr. Nick Flynn, who is a
15 GP based in Cork, and he has been retained to give 14:39
16 evidence in an expert capacity.

17
18 So by my count, Committee members, that's 11 witnesses
19 in total, so obviously further days are going to be
20 required beyond today and tomorrow to hear the case. 14:39
21 And obviously it remains an open question as to whether
22 Dr. Chughtai would wish to go into evidence or not.

23
24 The burden of proof in this case always rests with me
25 as counsel for the Chief Executive, and the standard of 14:40
26 proof is the criminal standard, so I must prove the
27 case beyond a reasonable doubt.

28
29 So that's all I want to say by way of opening.

1
2 what I propose to do next is to open the complaint that
3 witness A made to the Medical Council. And what I
4 would ordinarily do in a case such as this is then read
5 the response received from Dr. Chughtai by the Medical 14:40
6 Council to the complaint, but this case is unusual
7 because what followed from the complaint was a very
8 protracted and lengthy exchange of correspondence
9 between Medical Council staff and Dr. Chughtai, in
10 which he says a lot of different things, some of which 14:40
11 relates to witness A's allegations, some of which
12 relates to the Medical Council's conduct. But if I
13 were to read all of that correspondence, it would
14 certainly take the rest of the day to read it all.

15
16 So with the Committee's leave, I don't propose to open
17 any of it, but I think the Committee can proceed on the
18 assumption that Dr. Chughtai does not accept the
19 allegations made against him in the complaint and
20 refutes them. 14:41

21
22 And it may be that if and when a cross-examination of
23 witness A takes place, the parameters of his case, or
24 the manner in which he is denying the case will become
25 clearer. And at that point, or at some point later in 14:41
26 the case, I will bring you to the relevant parts of the
27 correspondence that he sent, but I don't want to waste
28 the Committee's time by opening long tracts of
29 correspondence, which may or may not ultimately end up

1 being relevant.

2
3 So before I proceed to look at the complaint, do any
4 Committee members have any questions for me, are there
5 any issues with what I have proposed? 14:41

6 CHAIRPERSON: Thank you, Mr. McDowell, that's very
7 helpful and very clear. Committee colleagues, any
8 questions?

9 MS. DEVINS: No, thank you.

10 DR. DAVIN-POWER: No, thank you, very clear. 14:41

11 CHAIRPERSON: And I appreciate your focus there and
12 that does help us make best use of our Committee time
13 here today. Mr. McGuinness, any matter that we need to
14 be advised of?

15 MR. MCGUINNESS: No, chair. 14:42

16 CHAIRPERSON: Thank you. So Mr. McDowell, please
17 proceed with the complaint.

18 MR. McDOWELL: Yes, so the complaint -- I am looking
19 at, for the assistance of the TrialView operative, I am
20 looking at tab 2 of what we had referred to as the Core 14:42
21 Book, and this is -- it is the text of the complaint
22 made by witness A.

23 CHAIRPERSON: So if I could stop you there, sorry,
24 Mr. McDowell, I don't think we have had the Core Book,
25 I think we just got your signed Notice of Inquiry 14:42
26 and --

27 MR. McDOWELL: Yes, so in the absence -- I mean --

28 CHAIRPERSON: Sorry, I beg your pardon, I see it now
29 appearing, so the complaint form has been now uploaded.

1 Thank you.

2 MR. McDOWELL: Just, I suppose, to make an overarching
3 comment, ordinarily, as you know, the Core Book would
4 be agreed. Here it hasn't been and I therefore don't
5 want to put -- I mean unless the Committee are happy to 14:42
6 proceed that way, I wasn't going to put evidence before
7 the Committee until it has been proven.

8 CHAIRPERSON: No, I think that's perfectly reasonable,
9 Mr. McDowell, and sensible in Dr. Chughtai's absence.

10 MR. McDOWELL: Yes, so -- 14:43

11 MR. MURRAY: Apologies, I might just ask you to pause
12 for a second, it looks like Ms. Davin-Power has just
13 dropped off.

14 CHAIRPERSON: Thank you, Alexander, that's very
15 attentive of you. 14:43

16
17 (SHORT PAUSE IN THE HEARING)

18
19 MR. MURRAY: It looks like Ms. Davin-Power has rejoined
20 us. I might just confirm that she can see and hear us 14:43
21 okay?

22 DR. DAVIN-POWER: Yes, I am back, sorry, there was some
23 glitch there, but I seem to be back on now. Thank you.

24 CHAIRPERSON: Thank you very much.

25 MR. McDOWELL: So Committee members, I am reading from 14:44
26 a document that's -- yes, precisely that document.
27 Just to explain this, witness A submitted a complaint
28 form to which this document was appended on 26th June
29 2019, that's what the evidence will be. And I am just

1 going to read this document into the record, which will
2 give some context to Witness A's evidence, so she says:

3
4 "I was an intern in Mayo University Hospital for six
5 months between January 2016 and July. During the first
6 three months, I was assigned to Dr Tom Lee's Team.
7 Dr Chughtai was the registrar at that time and there
8 were two SHOs. My interaction with Dr Chughtai was
9 limited to daily ward rounds followed by a cup of tea
10 which was done as a team. Following tea I would mainly
11 spend the day with the SHOs, and perhaps once more
12 during the day would I see or discuss patients with the
13 registrar.

14
15 "Aside from the odd occasion when the SHOs were both
16 away and I had to contact him directly in order to
17 confirm patient treatment plans, I regarded our working
18 relationship as limited. Aside from group discussions
19 at morning tea or a very seldom conversation on the
20 wards I did not engage with him on a social level. I
21 did not at any point give any indication that I was
22 interested in a friendship outside of work or a
23 romantic relationship.

24
25 "The following details are from memory as I lost my
26 phone in Dublin on 14/5/16. I received a phone call in
27 early March 2016 from him. He was on annual leave in
28 Pakistan at the time and asked me if he could have the
29 next week off work. I told him that the annual leave

1 calendar had been decided in January and that the
2 consultant had specifically said that Monday 14th would
3 be a busy day. I found it slightly unusual that he was
4 asking me as the most junior member of the team for
5 time off and also that he was more chatty than usual.
6 Late on the evening of the 12th (I recall as I was at a
7 social event) I received a message along the lines of
8 'I am back in your stupid country, what should I do?'.
9 I ignored it as I thought it unusual. The following
10 day I receiving multiple messages and missed calls,
11 asking about my whereabouts and that I had worried him
12 because I had not replied. I replied to confirm I was
13 fine and that I had been busy. The next day at work,
14 Monday, he messaged me to meet him in a side room in
15 emergency department alone, I said I was busy as I
16 thought it strange.

17
18 "Soon after this he approached me on the corridor and
19 asked me if the consultant was annoyed at him, as it
20 was a busy day I said it was unlikely and that we were
21 busy. He walked away, seemingly more concerned with
22 that worry then helping with the jobs after the ward
23 round.

24
25 "A week or two following this I was off on a Friday. I
26 began to receive multiple messages and phone calls
27 asking me to meet with him. The content included
28 telling me that he missed me when I was not there, that
29 I should be nice to him because I had family in Ireland

1 and he did not, that he was headed to the airport and
2 that he needed to see me to discuss something important
3 before he left which in subsequent messages became
4 apparent that he wanted to marry me. I replied to say
5 that it was inappropriate and to stop messaging me. He
6 said he would stop texting me, but then started
7 whatsapping me.

8
9 "The following Monday I discussed this with Dr Lee who,
10 straight away, accompanied me to Annette Kelly, the
11 Medical Manpower Manager. I discussed the above with
12 them and asked for the rota to be planned so that I did
13 not have to do on call shifts with him. As I was
14 switching to a different team within the following week
15 or so, and Dr Chughtai would not be back in the country
16 until after that, I felt that that would be sufficient
17 as long as the communication stopped. At that time I
18 did not wish to undertake a formal complaint. Dr Lee
19 and Ms Kelly discussed my concerns with him. I was
20 told by them, that he was apologetic and sought a
21 meeting with me, in their presence, in order to
22 apologise. I refused as I felt it would only benefit
23 him and I did not want to be in his presence. For the
24 next two months or so he did not try to communicate
25 with me. Unfortunately my phone was misplaced that May
26 and I have no back up of those messages prior to that.

27
28 "In the weeks leading up to changeover 2016, he started
29 walking up to me on the ward asking me to go for tea.

1 Often these incidents occurred when I was working alone
2 on a computer and no one else was in the room, which
3 startled me. I refused on all occasions. The last
4 time, within the last week of the job, he asked me why.
5 I was flustered and shocked by this as I couldn't
6 understand why despite being told to leave me alone
7 both via text and verbally by senior colleagues he
8 didn't understand that he needed to leave me alone. I
9 replied 'there (was) no point' as I wanted him out of
10 my personal space as soon as possible.

11
12 "I subsequently moved jobs to Portiuncula where I
13 worked as a general surgery SHO and then Plastics in
14 University hospital Galway in January 2017.

15
16 "The majority of the following messages will be
17 attached to this form.

18
19 "Between 29th - 31st March I attended at ATLS course in
20 Sligo, there I met a man who had worked in University
21 Hospital Mayo, however I do not recall his name as I
22 would have had minimal dealings with him during my time
23 in Mayo. On the evening of the 30th I received a
24 message along the lines of 'you still don't comb your
25 hair'. I thought it was spam and ignored it. The
26 following day I receive a call from a number I don't
27 recognise. When I answered there was silence, I said;
28 'Hello, Hello' and I heard a faint whisper saying
29 'Hello'; Then I said 'Who is this?', and again a faint

1 indistinct whisper. I repeated who is this, and
2 thought I heard 'Hassaan', I said, 'you have the wrong
3 number', he said 'no I don't'. I then hung up. This
4 caused me great alarm. I was on Strandhill beach alone
5 and was unsure about whether he knew I was in Sligo,
6 the text from the previous day gave me the impression
7 he was watching me or that he had been in contact with
8 the other man about me and knew where I was. I drove
9 home to Galway and the following morning awoke to a
10 long convoluted text message which again caused me a
11 lot of anxiety. The message which will be attached
12 made unusual references, to random events, that he
13 seemed to add, unwarranted, significance to. One
14 incident he referred to, I had started crying following
15 an argument with a rude secretary at a GP practice and
16 I ran past him on the corridor to have some privacy in
17 the bathroom, the event did not involve him at all.
18 However he referenced it as having some relevance to
19 him. He referenced me gawking at him, which I would
20 have avoided as he made me uncomfortable and would do
21 my best to avoid him after the inappropriate messages
22 started. I honestly have no idea why he drew relevance
23 to events that he listed. He concluded the message by
24 stating a time and place in Galway which he wanted to
25 meet.

26
27 "He made reference to an UK number, to my knowledge he
28 wasn't working in Ballinasloe, Galway, Mayo or Sligo at
29 the time so I understood he would have had to travel

1 quite a distance in order to get to Galway, however I
2 have no idea why he was in Galway that day. Following
3 the message I decided to contact the Gardaí, who
4 advised a formal complaint was lengthy process and
5 probably not appropriate, I was frustrated by this, but
6 took their advice to text him and clearly state that I
7 had been in contact with the Gardaí and that I would
8 take matters further if he contacted me again.

9
10 "To clarify I did not respond or send any messages to
11 him since 2016 when I had stated that he should stop
12 contacting me and I blocked the numbers he was using to
13 contact me. Nor did I have any contact with him in
14 person since I left my intern post at Mayo university
15 Hospital to date. At that time I think there had been
16 in total perhaps three or four different numbers.
17 After sending the message to him stating that I had
18 talked to the Gardaí and that I would have to take
19 things further should he contact me again, he stopped
20 trying to communicate directly with me. He began
21 messaging my friend Claire Cullen, who I had lived with
22 during my time in Mayo and who had been working in the
23 Geriatric Department at the time. She also told him to
24 stop messaging her.

25
26 "Although I received some strange messages and calls
27 since then, I cannot say with certainty that he sent
28 them.

1 "However, on 18/5/19 I received a call from an unknown
2 number. When I answered there was silence, I said
3 Hello twice and then the line hung up. I then receive
4 a message from a number I didn't have in my phone
5 commenting on my voice and asking me to meet, I replied
6 asking who it was and when he confirmed it was
7 'Hassaan' I blocked the number. Over three days I
8 started to get calls and more messages from other phone
9 numbers, which I blocked in succession. He then
10 started asking me to meet him in a pub, in Galway,
11 close to where I am currently living. As a result I
12 felt unsafe to travel back to my apartment.

13
14 "I went to the Mill Street Gardaí station on 20/5/19
15 and discussed the case with the officers there. As I
16 was there he continued to text me. They proceeded to
17 call Dr Chughtai and asked him to present to the
18 station. I left without meeting him. The officers
19 informed me that he admitted to sending the messages
20 and buying several phone numbers online in order to
21 continue to message me despite me blocking his numbers.
22 According to the officers he signed a statement stated
23 this and also that he would not contact me again, they
24 asked him to delete my number from his phone.

25
26 "I have decided to continue with a formal charge
27 against him as I feel despite multiple warnings he
28 has not stopped.

1 "I would like to make absolutely clear that at no point
2 did I give him any impression that I was interested in
3 a friend outside of work or romantic way. I had very
4 limited communication with him outside a group setting
5 and whatever small conversation outside of discussing
6 specific patients was purely out of politeness as we
7 were working together. I do not know much about him,
8 in fact I did not know his surname until I set about
9 finding it out to make these complaints.

10
11 "This is causing a significant amount of stress,
12 especially moving to a new hospital as I will be
13 concerned that he might show up. I will attach
14 screenshots of messages that I have. If you require
15 any further information please do not hesitate to
16 contact me."

17
18 So that is the complaint. In the pages that follow
19 there are screenshots of text messages that I am not
20 going to open for the time being because I am going to
21 ask witness A to bring you through them in due course.

14:52

22
23 But I should also say, just for completeness, that this
24 complaint, as I said earlier, was made on 26th June
25 2019.

14:52

26
27 On 19th August 2019, so just shy of two months later,
28 Dr. Chughtai made a complaint against witness A to the
29 Medical Council. And after some correspondence with

1 the Medical Council he withdrew that complaint on 17th
2 September 2019. So just shy of a month after he made
3 it.

4
5 I don't think that has any perhaps significant bearing 14:53
6 on the allegations before you today, but it may be an
7 important piece of context.

8
9 CHAIRPERSON: Thank you for doing that. And while you
10 do that, just to remind me that Dr. Chughtai said 14:53
11 earlier this morning that he had made contact with the
12 hospital in advance of making a complaint to the
13 Medical Council.

14 MR. McDOWELL: Yes.

15 CHAIRPERSON: There was a distinction that he was 14:53
16 making there, so it is important that we realise that.
17 So your evidence is very clear that the sequence in
18 which the Medical Council received this complaint and
19 the second complaint from Dr. Chughtai.

20 MR. McDOWELL: Yes. I think, as I understood 14:53
21 Dr. Chughtai earlier, he said that in April of '19, he
22 made a complaint to the WRC against Dr. Lee and perhaps
23 others. I don't know anything about that, but it
24 suffices to say that he couldn't have a WRC complaint
25 against witness A, because witness A isn't and wasn't 14:53
26 his employer.

27 CHAIRPERSON: Yes.

28 MR. McDOWELL: That's all I want to say about that.

29 CHAIRPERSON: Thank you.

1 MR. McDOWELL: So I am going to call witness A to give
2 evidence.

3 MODERATOR: Chair, I will need to pause and restart the
4 hearing room to adjust the settings for witness A, so
5 just bear with me a moment. 14:54

6 CHAIRPERSON: Thank you very much.

7
8 (SHORT PAUSE IN THE HEARING)

9
10 MR. MURRAY: I see that witness A has been let into the 14:57
11 room now. I just might confirm that everyone is back
12 and can see and hear me okay?

13 CHAIRPERSON: Yes, thank you, Alexander, I can hear
14 you, and I can see witness A.

15 MR. MURRAY: Okay, I will just swear her in now if 14:57
16 that's okay, chair?

17 CHAIRPERSON: Thank you, please do.

18
19 (Witness A sworn)

20 14:58
21 CHAIRPERSON: Good afternoon, witness A. You are very
22 welcome to this inquiry. I want to begin by first of
23 all thanking you for your attendance today. Thank you
24 for your complaint to the Medical Council of, I
25 believe, 2019. 14:58

26
27 And just to acknowledge to you that we have made a
28 decision previously to anonymise your identity, so we
29 are asking participants in this not to disclose your

1 identity.

2
3 Dr. Chughtai is involuntarily absent this afternoon,
4 for reasons that we don't need to trouble you with, you
5 may have been in attendance in the public session so 14:59
6 you may be aware.

7
8 We are going to commence with your evidence this
9 afternoon, and I understand that it may be a lengthy
10 evidence and we may need to continue it tomorrow, but 14:59
11 it was important for us to begin the evidence today.

12
13 I also should say that we had -- the Committee has had
14 sight of your e-mail from this morning, we appreciate
15 that and thank you for that as well. 14:59

16
17 I will hand you over to Mr. McDowell, who is the
18 counsel for the CEO, who will lead you through your
19 evidence. And once again thank you for your
20 attendance. 14:59

21 WITNESS A: Thank you.

22 CHAIRPERSON: We seem to have lost Mr. McDowell.

1 WITNESS A, HAVING BEEN SWORN, WAS DIRECTLY EXAMINED BY
2 MR. McDOWELL AS FOLLOWS:

3
4 1 Q. MR. McDOWELL: Witness A, the first question I want to
5 ask you is, have you been present for all of today, and 15:00
6 have you heard everything that has gone on today?

7 A. I wasn't present for the first about an hour or so, but
8 since then I have been listening, yeah.

9 2 Q. Okay. So I wonder could you just begin by -- and sorry
10 maybe before I start questioning you, Witness A; chair, 15:00
11 could I ask, I suppose for my own purposes as much as
12 anything else, what time you intend to sit to today, or
13 has a decision been made on that?

14 CHAIRPERSON: Thank you, Mr. McDowell, my apologies for
15 not indicating that earlier. We were thinking of 15:00
16 sitting until about 4 o'clock.

17 MR. McDOWELL: Very good.

18 CHAIRPERSON: And not going beyond 4 o'clock. We have
19 a little bit of flexibility around there, but that
20 would be our preference. 15:00

21 MR. McDOWELL: That's helpful thank you.

22 3 Q. So Witness A, could you begin by telling the Committee
23 about where you are from, your educational background
24 and so on?

25 A. I suppose I am from Kilkenny, I am a little bit 15:00
26 hesitant to say that because of the nature of what has
27 gone on before, but I have had all my primary and
28 secondary school education in Ireland. And then I
29 qualified from medicine in Galway in 2015. In July, I

1 started as an intern working in Galway, and then I went
2 on to work in Mayo from January 2016.

3 4 Q. And where are you working now? Sorry, are you working
4 in Ireland now?

5 A. Yeah, I am working in Ireland, yeah. 15:01

6 5 Q. As a doctor?

7 A. Yeah, yeah.

8 6 Q. And again I don't want to sort of ask you to say
9 anything that you are not comfortable saying, but I
10 think that over the last sort of eight years or so you 15:01
11 have moved around quite a bit, isn't that right?

12 A. Yeah.

13 7 Q. And you have worked in various different hospitals.
14 And I assume that's part of your training as a doctor?

15 A. Yeah. 15:01

16 8 Q. So what I would like you to do, Witness A, is to sort
17 of tell your story to the Committee, if you don't mind,
18 about your position in Mayo University Hospital between
19 January and June of 2016?

20 A. So I was an intern. I had a six month rotation. It 15:02
21 was a little bit unusual, because usually it is two
22 different specialities, but I was in geriatrics for six
23 months. The first three months I was working with
24 Dr. Tom Lee. And the second three months I was working
25 with Dr. Tom O'Malley. So it was very similar jobs. 15:02
26

27 And part of my role there would have been to do 24-hour
28 on call. That was in a rota with other -- with the
29 SHOs, not just the interns, because there wasn't enough

1 interns. Yeah, that's essentially what I was doing.

2 9 Q. Yes. And could you tell -- we will come on to some of
3 the detail of your complaint in due course, but could
4 you tell us in general terms about the extent of your
5 relationship with Dr. Chughtai during that time?

15:03

6 A. So the first day it would have been change-over January
7 2016, I think it was -- it is normally the first or
8 second Monday of the month, so I think it was around
9 the 11th, I went on to the ward and I met the entire
10 team, so it was Dr. Lee and the SHOs and Dr. Chughtai.

15:03

11
12 Essentially it became quite quickly established that
13 what we would do is, as a group of four, or five,
14 sorry, we would round on all the patients, and then
15 Dr. Lee would bring us down to the front of the
16 hospital where we would have a cup of tea together. He
17 was quite friendly, so he would ask, you know, everyone
18 how they were getting on and, you know, we would
19 discuss kind of things that had happened, and that kind
20 of became a little routine. It wouldn't happen every
21 day, sometimes we were very busy, we had post call,
22 sometimes people were absent, because when you did 24
23 hours, you weren't expected to be in the next day, but
24 generally there was a bit of a routine of doing that.

15:03

15:04

25
26 My initial impression was that he was fairly absent,
27 aside from the ward round when Dr. Lee was around and
28 that those breaks afterwards, I wouldn't really see
29 him. I spent most of my time with the two SHOs, who

15:04

1 were extremely proficient at their jobs, they were
2 really approachable. And between the three of us we
3 just did everything.

4
5 There were times when one of them would be on annual 15:04
6 leave or study leave and the other would be post call,
7 so that meant that it was just myself and Dr. Chughtai
8 on the team that day essentially. And once the ward
9 round was done with Dr. Lee, I would have assumed that
10 I would have spent the day, as I did with the SHOs, 15:05
11 going from ward to ward doing tasks, but actually often
12 he just left and I was left to kind of do things on my
13 own.

14
15 So it was then that I would reach out to him to ask 15:05
16 him, you know, to clarify things. Obviously Dr. Lee
17 was very approachable, so I felt like I could
18 communicate with him as well, but it was only when, you
19 know, I felt that they were minor, you know, things
20 that I could, I didn't have to talk to Dr. Lee about. 15:05

21
22 But generally speaking he wasn't always very
23 responsive. If I communicated with him, it was very
24 quick short responses. It was never really -- he never
25 engaged in any teaching or anything like that. And 15:05
26 certainly the only thing I remember about him outside
27 of work was when Dr. Lee asked him about his personal
28 life, you know, he had asked the other two SHOs what
29 their personal relationships and things were, just to

1 get a background, because one of them had just had a
2 new baby, and he was going around the table to be
3 polite, and that was the only time that I had any
4 inkling of anything outside of the hospital about him.
5 And he just mentioned something about someone in 15:06
6 Australia that he was close to, and he didn't really
7 mention anything else.

8
9 And I essentially -- I just found him very, like, he
10 wouldn't say much when I did have to engage with him. 15:06
11 Even when I was a little bit maybe lost as the most
12 junior member and looking for a bit more information,
13 it was very, very limited contact, and certainly we
14 just -- he seemed to have another focus outside of
15 doing the daily work as he wasn't really there when we 15:07
16 were doing it.

17 10 Q. Yes. And could you tell the Committee then about what
18 happened in March of 2016?

19 A. So I was asked, just to go back, in January, because I
20 was really keen to get courses and annual leave booked, 15:07
21 I was asked by Dr. Lee to type up what had been agreed
22 by the entire team, Dr. Lee and Dr. O'Malley's team
23 into a word document, including everyone's leave.

24
25 So I was essentially just making a record of it. So I 15:07
26 received a call, I don't know whether it was the 10th
27 or 11th, but it was late enough one evening and I was
28 at home, I was living in Westport when I worked in
29 Castlebar, so I remember being in my sitting room, and

1 I received a call. He at the time was in Pakistan, and
2 he was asking me if he could kind of essentially take
3 another week to stay there and, you know, whether or
4 not I could grant that.

5
6 It seemed quite unusual, because it wasn't as if he was
7 saying, oh is it, you know, is it free, you know, are
8 other people away, like, how busy... like he was asking
9 like how busy we were and that, but essentially it was
10 more like, oh, come on, why won't you let me do it,
11 like, please. And I was, like, well, I have no power
12 here.

13
14 But also I remember because Dr. Lee had specifically
15 said that that Monday coming was going to be extremely
16 busy, we were post call, and he had made note that
17 everyone was to be on their A game and, you know,
18 really emphasised everyone's presence. So I knew as
19 well that information and I passed that on to him.

20
21 So essentially then what happened was that Monday came
22 along, and I remember being on one of the wards and he
23 kind of came up when myself and one of the SHOs were
24 looking at the computer and he kind of said, can I talk
25 to you? And I was like, about what? Kind of, you
26 know, because it seemed odd that he wasn't there for
27 the purpose of doing the jobs when we were really busy
28 and he was trying to distract me away from it.
29 So he kind of said, oh, you know, whatever. And he

1 actually -- he kept asking me as well via text, you
2 know, was Dr. Lee angry at him and, you know, was he
3 annoyed at him. And I was, like, I can't speak for
4 Dr. Lee, I don't know what has gone on between the two
5 of you.

15:09

6
7 So... and then another thing that happened was
8 essentially he asked me to go down to the emergency
9 department on my own and meet him in a side room. And
10 I asked the other SHO, you know, do we have any
11 patients down there because we have just done an on
12 call. And he said, absolutely not, there is nobody
13 down there, don't go down there. And the two of us got
14 a very uncomfortable sense from what was happening that
15 obviously what he was asking me to do down there was
16 not anything to do with the day job. We just ignored
17 it. So that is the best of my recollection of that
18 day.

15:09

15:10

19
20 But essentially I don't -- I can't recall the specific
21 date, but after that then within a week or two, I was
22 at home on study leave doing my masters, again in the
23 sitting room in Westport, I noticed that my phone
24 starting erupting, it just went several messages, like
25 in quick succession. And essentially I looked at my
26 phone and it was all this panicked messages saying, I
27 need to meet you now, I need to meet you now. And,
28 like, he had made reference as well that he missed me
29 when I wasn't around. And he had something really

15:10

15:10

1 important to say to me before he got to the airport.
2 And I just left the messages kind of roll in, and then
3 I saw a message saying that he wanted to marry me, so
4 straight away, like, just felt absolute sense of
5 terror.

15:11

6
7 And I wrote back to him and I just said, that's
8 completely inappropriate, stop messaging me. And at
9 the time I think we were just using text messages. And
10 he fairly quickly then resorted to using whatsapp and
11 said, I won't text you, but I will whatsapp you.

15:11

12
13 So then again I got the sense that this guy doesn't
14 understand, you know, how inappropriate this is. So
15 that was a Friday and -- sorry, I think I am actually
16 leaving out, maybe I left out something.

15:11

17
18 There was a ball that I was at previously that was --
19 when he was asking me about his annual leave -- so
20 sorry just to go back to the first thing, he was asking
21 me about the annual leave and then asking if he could
22 come back into the country, or he could stay out of the
23 country. And then I said, look, I can't tell you that,
24 and I think we are busy next Monday.

15:12

25
26 And then the day after that I was at a ball in Galway
27 and I remember getting a text message saying "I am back
28 in your stupid country", you know, what am I going to
29 do? As if it was my responsibility now that I had

15:12

1 brought him back and I just ignored it. And then the
2 next day again I got a succession of text messages
3 panicky: where are you? what are you doing? why
4 aren't you answering me?

5
6 And then the Monday was, sorry to reference, the day
7 that we were post call really busy, and he kept asking
8 me to meet him in the emergency department or come away
9 to discuss it.

10
11 So going back then, sorry, to essentially -- I got this
12 text saying he wanted to marry me, this is like two
13 week later. And I said, you know, it is totally
14 inappropriate, stop messaging me. He started
15 whatsApping me.

16
17 So that was a Friday. And on the Monday I just -- we
18 did the ward round, and as we were sitting down with
19 tea with Dr. Lee, I just slid the phone over to him and
20 I said, this is what I received last week. And he
21 said, okay. And straight away the two of us stood up
22 and walked over to Medical Manpower to Annette Kelly.
23 And essentially I just explained, look, this is what I
24 have received.

25
26 I went back and told him about the previous episode and
27 I said, look, I don't want to be on the on-call rota
28 because that would mean being in a 24 hour shift where
29 I am alone on my own with him at night, and I don't

1 think that would be appropriate. And they said that
2 they would look after that essentially.

3 11 Q. Yes. And do you know what Dr. Lee or the person from
4 the Medical Manpower unit did with that information?

5 A. So basically the next thing that happened was I got all 15:14
6 these frantic messages again. I think I might have
7 gotten a voice message saying, you know -- I can't
8 remember the content, but I remember being petrified,
9 and I was with Claire Cullen at the time, and I just
10 knew that he had obviously found out. So then I 15:14
11 reached out back to Medical Manpower, and they said
12 that they had e-mailed him while he was in Pakistan to
13 tell him to stop communicating with me. And obviously
14 that enraged him. So I was terrified then.

15 15:14

16 And essentially afterwards there was like a gap because
17 he was a way for, I think, two weeks and then there was
18 a change over to Dr. O'Malley's service, so I wasn't
19 going to be working with that team.

20 15:14

21 So he was away and then he came back, and when he came
22 back he wanted to meet with me and Dr. Lee and
23 Ms. Kelly were going to be there, but I refused. I
24 didn't want to meet him because I felt really unnerved
25 by it. I felt it was only for his own benefit that 15:15
26 that was going to happen, and I felt like he was just
27 completely irrational.

28 12 Q. Yes. And what I am going to do next, Witness A, is,
29 and you may or may not be familiar with the document I

1 am about to open, but if I could ask that Ms. Horan
2 might open tab 51 or upload tab 51 of the book.
3 MR. MURRAY: Apologies, Mr. McDowell, could you repeat
4 that tab number?
5 MR. McDOWELL: Tab 51 please. 15:15
6 MR. MURRAY: Thank you.
7 MR. MURRAY: That should be uploaded now.
8 MR. McDOWELL: Thank you. So just while that is being
9 put on screen, chairperson, tab 51 contains the human
10 resources file for Dr. Chughtai that was provided to 15:16
11 the Chief Executive by Annette Kelly, a Medical
12 Manpower Manager at Mayo University Hospital in August
13 of 2019. And if I have my numbering right I think
14 that's Exhibit E.
15 CHAIRPERSON: Yes, that makes sense. I called it 15:16
16 Exhibit 5, but...
17 MR. McDOWELL: 5 is fine, yes.
18 CHAIRPERSON: Thank you. And I presume you can clarify
19 that that exhibit has been shared with Dr. Chughtai?
20 MR. McDOWELL: It has, yes. 15:16
21 CHAIRPERSON: Thank you.
22 MODERATOR: I have the documents showing up here, but
23 it won't load. I don't know if that's a problem with
24 the upload or with my system, because the other
25 documents in the book will upload for me. 15:17
26 MR. McDOWELL: Okay, I might move on, it is not -- I
27 might come back to this document if we can sort that
28 out, it is not a critical document and witness A
29 doesn't need to prove it in any event. It is a

1 document that I will come back to if that's okay,
2 chairperson.

3 CHAIRPERSON: It is of course.

4 MR. McDOWELL: Yes. So I think, witness A, you had
5 said that your understanding was that there was a 15:18
6 meeting involving Dr. Chughtai, that he had asked to
7 speak to you in the company of Dr. Lee and Ms. Kelly,
8 and that you had refused that, is that right?

9 A. Yeah.

10 13 Q. Yes. So in terms of the narrative of events, what's 15:18
11 the next significant thing that happened?

12 A. So essentially, like, I just spent the time then doing
13 my best to avoid him. There were times where I was
14 scheduled to be on 24 hour shifts with him, and I had
15 to ask Claire Cullen to take those shifts, which I felt 15:18
16 bad about, but I just, I didn't have any other options,
17 because I was kind of told to keep it amongst
18 ourselves, and essentially I thought the matter was
19 resolved.

20 14 Q. Can I interrupt you, witness A, and you obviously can't 15:18
21 speak about things that you don't know, but what was
22 your understanding of what happened at the meeting with
23 Dr. Chughtai and Dr. Lee?

24 A. So essentially when he came back into the country I
25 think they met in person and they told him, you know, 15:19
26 to leave me alone, you know, that it wasn't
27 appropriate.

28

29 From what Dr. Lee told me, he said that he wasn't doing

1 so well, that he had mental health problems.

2 15 Q. I might just ask you to say, if you don't mind as a
3 matter of the evidence, if you would just confine
4 yourself to things you know rather than things that
5 were said to you if that's okay? 15:19

6 A. Yeah.

7 16 Q. In any event I think you said that you understood that
8 the output of the meeting was that Dr. Chughtai was to
9 leave you alone?

10 A. Yeah. 15:19

11 17 Q. Yes.

12 A. Yeah.

13 18 Q. Sorry, I interrupted your narrative, so if you want to
14 then go back to what you were describing?

15 A. So I had under assumption thought that he understood to 15:19
16 leave me alone and, you know, I wasn't receiving any
17 more messages at that point, so I thought that things
18 were kind of resolved. But then towards the end of the
19 rotation in June/July I kept, like, there was one
20 instance where I was on the ward on a computer and he 15:20
21 ended up standing in front of the computer behind the
22 desk on the corridor and he said, do you want to go for
23 tea? And I looked around and there was nobody else
24 around. And I was quite startled. And he kind of -- I
25 said, no. And then he goes, why? And I said, there is 15:20
26 no point. Just because I was so startled, but I think
27 there might even have been a text message, I am not
28 sure, but, you know, he was kind of -- he seemed to
29 want to meet up with me before I left. But then I was

1 under the impression that when I left that it was done
2 and there was no further -- it wasn't going to happen
3 again.

4 19 Q. Yes. And can you recall when that was?

5 A. So that would be July 2016 at the change over. So it 15:20
6 would have been roughly, you know, the first Monday, it
7 just depends first or second Monday when it falls.

8 20 Q. And that was prior to you concluding your period in
9 Mayo, is that right?

10 A. That would have been... yeah, the conclusion, that 15:21
11 change over date, it is when all the junior doctors
12 change over in July.

13 21 Q. Yes. And do you think that, or did you understand that
14 the purpose of the invitation for tea was to discuss
15 work related matters? 15:21

16 A. No, because we weren't involved in looking after the
17 same patients, and there were plenty of other people on
18 my team that he would have known, like, my registrar
19 and him, or the SHOs that he could have talked to that
20 were more senior than me. I felt like it was something 15:21
21 to do with the previous messages that he had sent.

22 22 Q. Yes. And had you given him any indication, or is there
23 anything you can think of that might have give him an
24 indication that you wanted to speak for him or to go
25 for tea with him? 15:22

26 A. No.

27 23 Q. And then can I just ask you, we will go back to the
28 document that's now uploaded in a moment, can I just
29 ask you, a lot of your evidence that you have just

1 given in relation to that period in early 2016 relates
2 to phone calls and text messages. And I just want to,
3 I suppose I would like to you give evidence in relation
4 to where your phone is and how you can recall those
5 events?

15:22

6 A. So on 14th May that year I actually was in a bar in
7 Dublin, and I went to the bathroom, and somewhere
8 between the sink or somewhere I left my phone down and
9 it was taken, and I didn't notice quickly enough. So
10 that phone was gone. I got a new phone from then on.
11 So the incidents prior to that I just remember I can
12 recall them. And yeah, I am not sure that there was
13 anything else. If there was any messages I don't have
14 them anyway, I am not sure between May and July.

15:22

15 24 Q. Yes. So then, chairperson, I am just going to now go
16 back to what I think was tab 51, so this is the human
17 resources file, you can see that letter Ms. Kelly
18 provided it to the Medical Council on 21st August 2019,
19 which is roughly two months after witness A made a
20 complaint to the Medical Council. And Ms. Kelly will
21 be called to give evidence in due course and will be
22 able to prove these documents.

15:23

15:23

23
24 I wonder if the second page in that PDF could be
25 brought on the screen please. This is a document that
26 Dr. Chughtai was quite exercised about earlier, and I
27 will come back to that in a moment, but this is --
28 Ms. Kelly will say that this is a memo of the meeting
29 that took place between her, Dr. Lee and Dr. Chughtai

15:23

1 following witness A bringing these matters to the
2 attention of Dr. Lee in the manner she just described.
3 And you will see the meeting took place on 15th April
4 2016. And the memorandum says:

5
6 "Purpose of meeting was because texts Dr. Hassaan had
7 been sending to his medical intern...", and the name is
8 in brackets, "...which she felt were inappropriate in
9 nature. He had been saying he was lonely and wanted
10 some company and wanted to be her friend. She brought 15:24
11 it to Dr. Lee's attention and subsequently mine, but
12 Dr. Hassaan is on leave and only back to work today.
13 Dr. Lee and myself highlighted how inappropriate it was
14 for him to be texting anyone about this when it wasn't
15 reciprocated. We advised him that the intern in 15:24
16 question did not wish to pursue this any further in a
17 formal manner, but had highlighted it for our
18 attention.

19
20 "He confirmed he would not send any further texts and 15:24
21 was apologetic for this occurring in the first instance
22 and said he would like to apologise to her. I advised
23 him that I would check with Witness A if she wanted to
24 meet with him regarding his apology and let him know.
25 I subsequently rang Witness A on Friday, 15th April, 15:24
26 and she said she would think about this over the
27 weekend and let me know on Monday.

28
29 "We asked him was everything okay with and would he

1 benefit from speaking with employee support, which is a
2 confidential counselling service for the HSE. He asked
3 would I give him the contact number for same (e-mailed
4 to him on Friday, 15th April, at approx. 6:30pm).

15:25

6 "He discussed his study leave/annual leave request with
7 Dr. Lee and the meeting concluded.

9 "Signed: Annette Kelly, Medical Manpower Manager."

15:25

11 So witness A, have you seen that document before?

12 A. No.

13 25 Q. That's the first time you have seen it. And Committee
14 members, the reason I bring it to your attention is
15 because it is referenced in the preamble to several of
16 the allegations contained in the Notice of Inquiry.
17 Sorry the meeting of 15th April is the referenced in
18 the preamble, and this is therefore an important piece
19 of evidence as to what was said at that meeting. So
20 that's why I am drawing it to your attention now, even
21 though it is not witness A's documents.

15:25

15:25

23 Okay. So, I think, then witness A, you left Mayo in
24 July of '16, is that right?

25 A. Yeah.

15:25

26 26 Q. And where did you go from there?

27 A. I went to Portiuncula in Ballinasloe in Galway for six
28 months, and then I was -- I was living in Galway for 12
29 months, but I worked in Ballinasloe for six and then

1 Galway itself for the other six.

2 27 Q. Yes. And I wonder then could you tell the Committee
3 about where you were at the end of March of 2017?

4 A. So I was on an ATLS course in Sligo. And at this point
5 I kind of -- 15:26

6 28 Q. Sorry, I am very sorry to interrupt, Witness A, there
7 is one other thing I meant to ask you; you gave
8 evidence that you had lost your phone that had the
9 messages from that period in early 2016. Are you able
10 to tell the Committee what number the text messages and 15:26
11 phone calls came from?

12 A. It would have been the same number that contacted
13 Claire Cullen, because we all worked together at the
14 same time. So she received more messages, and it was
15 the same phone number. 15:26

16 29 Q. Yes.

17 A. So I don't recall it from the top of my head, but it
18 would be that number.

19 30 Q. We will come on to on that. Sorry, I interrupted you,
20 but said you were on a course in Sligo at the end of 15:27
21 March?

22 A. Yeah. So at that time several months had passed and I
23 thought it had been resolved, but I was going to bed
24 late one night and I was looking at an article on
25 journal.ie and this text message popped up and it said 15:27
26 'you still don't comb your hair' and I just thought it
27 was spam, I thought it was a strange thing, and I think
28 I might have deleted it thinking it was some virus or
29 something on my phone and went to bed. And then the

1 course concluded, I think it was around lunchtime on
2 the Friday, and I was on --

3 31 Q. Sorry, could you repeat what that message said, just so
4 that the Committee is clear on it?

5 A. "You still don't comb your hair". Some yeah it just 15:27
6 seemed nonsensical, so I thought it was spam.
7

8 So then I was on the beach in Strandhill, roughly
9 around lunchtime the next day, and I was waiting for a
10 friend for a coffee. And I was on the phone to a 15:27
11 different friend when I got a phone call from an
12 unknown number, so I swapped over to the unknown number
13 and I said, hello. And I got this really faint voice
14 back saying, hello. And it was really low. And then I
15 said, you know, hello. And they said, hello. And I 15:27
16 was like, who is this? And I wasn't quite sure if I
17 had -- like, I think I asked it once or twice, but then
18 I think I heard Hassaan. Like, it was so low, and it
19 was almost like he didn't even get to the end of the
20 word, it was like so whispered. 15:28
21

22 So then I just had a shudder, and it all kind of made
23 sense then and I just said, I don't know I had a
24 reaction and I just said, this is the wrong number.
25 And he was like, no, it's not. 15:28
26

27 So I hung up the phone absolutely terrified, because
28 then I realised that you still don't comb your hair
29 comment was like -- it sounded like him. And then I

1 thought that perhaps he had, he had been seeing me. I
2 didn't know why he was contacting me at this point.
3 But then I realised that there was another person on
4 that course who worked in Mayo. I don't know their
5 name, but I know that they would have hung out probably 15:28
6 socially, I don't know much about their relationship,
7 but I can assume that he probably told Dr. Chughtai
8 that I was at that course in Sligo and that I still
9 didn't comb my hair or something. So, you know, I
10 think that's maybe where it was triggered from. 15:29

11
12 But I met my friend for the coffee and I was quite
13 concerned about driving back to Galway where I lived at
14 the time. And when I got back --

15 32 Q. Sorry to interrupt, do you recall what time of day that 15:29
16 phone call took place?

17 A. It was in the afternoon, it was after lunch, I don't
18 recall the exact time, but I think, you know, it was
19 roughly around, you know, somewhere between 1 and 5pm
20 essentially, because everyone else was at work and I 15:29
21 felt, you know, I was off, because I wasn't expecting
22 the course to finish that early, so I was really happy
23 to get the walk in. And I was waiting for my friend to
24 finish her work at about four or five. So it was
25 fairly close to then. 15:29

26
27 Then basically I got back to Galway late enough that
28 night. And when I woke up the next morning there was
29 only -- I lived with two people, but one of the house

1 mates had gone, so it was just one other person there
2 in the house that morning, and they were leaving. And
3 I woke up and I found these very, very long winded
4 nonsensical messages that, like, really put a fear and
5 a panic --

15:30

6 33 Q. So perhaps I will just interrupt you, and I might ask
7 that tab 47 of the book be uploaded and put on the
8 screen.

9 A. I think there was also probably a text message before
10 those saying, you know, to unblock the number, because
11 I think I blocked the number as soon as it came up.

15:30

12
13 I suppose just to say as well in relation to that
14 comment about him being lonely, there were messages
15 around the time when I was in Mayo that you saying
16 that, you know, he had no family in Ireland and that I
17 did so I ought to be nice to him and that kind of...

15:31

18 34 Q. Yes, so if we look at -- if we look at the page that's
19 on the screen now, witness A --

20 MR. McGUINNESS: Chairman, may I just intervene to
21 clarify an issue?

15:31

22 CHAIRPERSON: Please do, Mr. McGuinness.

23
24 LEGAL ADVICE BY MR. McGUINNESS:

15:31

25
26 MR. McGUINNESS: Yes. I just want to bring to the
27 Committee's attention, and obviously to Mr. McDowell's
28 attention, rule 21 of the fitness to practise rules.
29 They are SI355/2020, and it is a short paragraph, and I

1 will read out the rule. It is headed "Rules of
2 evidence, 21":

3
4 "The Committee is not bound by the strict rules of
5 evidence that may apply in the Courts, and when 15:32
6 departing from same shall attach the appropriate weight
7 to such evidence.

8
9 "When deciding whether to admit evidence that is not in
10 accordance with the strict rules of evidence, the 15:32
11 Committee will take into account the extent to which
12 the admission of that evidence may represent a
13 fundamental breach of the registered medical
14 practitioner's entitlement to fair procedures and
15 natural justice. 15:32

16
17 "The registered medical practitioner/their legal
18 representatives and the CEO's representatives may make
19 submissions with regard to the admissibility or
20 otherwise of the evidence in question." 15:32

21
22 Now, chairman, I am just drawing attention to that,
23 because I think it is important in my opinion for the
24 Committee to understand the nature of the evidence that
25 Mr. McDowell is attempting to proffer here. This rule 15:32
26 that I have read deals with what might be described as
27 including hearsay evidence or other evidence that would
28 be inadmissible under the normal rules of evidence.
29 But I would just like Mr. McDowell to perhaps assist

1 the Committee as to whether this rule applies, because
2 if this rule doesn't apply, and if it doesn't apply
3 because this is evidence of what the witness saw and
4 what the witness did, she can identify these.

5
6 It clearly isn't evidence that is inadmissible because
7 it is hearsay and, therefore, rule 21 has no
8 application on that view of things.

9
10 So I am anxious that the Committee would be clear in
11 their own minds as to whether what's being proffered
12 here is direct first hand evidence of what the witness
13 saw, what the witness recorded and what the witness
14 received on the day in question.

15
16 Obviously it is of importance to the doctor, because he
17 seems to have concerns that the evidence may be
18 inadmissible. So obviously we don't quite know any
19 basis upon which it would be.

20
21 If this evidence is being proffered in accordance with
22 the strict rules of evidence, it is not hearsay, rule
23 21 doesn't apply, and there is some other perhaps
24 unformulated ground that the doctor might wish to raise
25 against its admissibility.

26
27 But if that is the case, it still is -- in my opinion
28 it is open to the Committee to allow this evidence to
29 be presented and to reserve any issue as to its

1 admissibility should such arise to a later time.

2
3 SUBMISSION BY MR. McDOWELL:

4
5 MR. McDOWELL: Thank you, Mr. McGuinness. So witness 15:34
6 A's evidence is going to be that she received text
7 messages on her phone, and that these are copies of
8 those text messages, and that she sent text messages
9 from her phone.

10
11 And as Mr. McGuinness says, those are things that she 15:35
12 can give first hand evidence of. And I don't -- in my
13 submission the rule against hearsay isn't engaged,
14 because I am not trying to rely on an out of court, if
15 I can use that term, an out of court statement to prove 15:35
16 the truth of its contents.

17
18 Witness A is here to say what she saw, what messages
19 she received and what messages she sent. And if an
20 issue arises with later messages, I will be conscious 15:35
21 of it, but I don't believe that there will be any
22 suggestion that I am trying to rely on what any message
23 says to prove a fact contained in those messages. And
24 if I am right about that, I think it follows that the
25 rule against hearsay isn't engaged. And if I am right 15:35
26 about that, I don't think that the facility afforded by
27 rule 21 needs be relied upon.

28 MR. MCGUINNESS: Thank you for that clarification. I
29 hope that assists the Committee.

CHAIRPERSON: It does indeed, thank you very much, Mr. McGuinness, and indeed, Mr. McDowell, we note that exchange and allow you to continue.

WITNESS A, CONTINUED TO BE DIRECTLY EXAMINED BY MR. McDOWELL AS FOLLOWS:

15:36

35 Q. MR. McDOWELL: So witness A, could you just, leaving aside the green messages at the bottom of this, could you tell the Committee what we are looking at on the screen there?

15:36

A. So essentially after the phone call there were messages, so this would have been on the Friday when I was sitting in my car on Strandhill. And, you know, I actually after the I hung up from the unknown number, I straight away called my other friend back who lives abroad. And I think as I was on the phone to her these were coming through. But then obviously there is -- I only know one Hassaan, so, like, it was obvious to me it was Dr. Chughtai, and the same level of kind of panic tone in the messages is similar to what I had experienced before.

15:36

15:36

36 Q. Yes. And you provided this screenshot, this document that is on the screen with your complaint to the Medical Council, isn't that right?

15:37

A. Yes, and I also gave it to the Gardaí before that, yeah.

37 Q. And this screenshot is a screenshot taken from your phone?

1 A. Yeah.

38 Q. And just for the transcript I will read out what the
three messages say. So the first message says:

"Unblock me, I just want to talk, if okay with you let me call, or at least reply on What up or Instagram, please, please, Hassaan."

And then the second message says:

"Please can you unblock so at least I can talk, please."

And then the third message says:

"Can you not please for God's sake meet me for five minutes, please."

And those are sent according to your screenshot, witness A, at nine minutes past three on 31st March 2017.

And then if we go to the next page there is a message in green at the bottom. Is that a message that you sent?

A. Yeah, so actually this -- I remember where I was when I sent this, I had just gone into the police station the next morning after receiving whatsApps. So there is lengthy whatsApps.

1 39 Q. We will come to the whatsApps after this, yes.
2 A. Yeah, so when I went into the Garda station I said
3 that -- you know, I tried to tell them the story. And
4 the response I got was, ah, just delete him off
5 Facebook love. And I immediately realised that he 15:38
6 wasn't listening, because Facebook wasn't involved.
7 And I said, look, I really want to put a written
8 complaint in, I am afraid, you know, that he knows my
9 location. And anyway I was met with exactly this
10 quote, essentially, they told me to send that to him 15:38
11 and that should stop him.
12
13 So for the few seconds it took for me to walk from the
14 door of the police station to the car park beside
15 Galway Millstreet Station, that's when I typed it and I 15:38
16 sent it when I was standing there.
17 40 Q. Yes. So this is a text message that you sent the
18 following day on 1st April '17, at 11 minutes past 11
19 in the morning. And you say:
20
21 "You have already been told not to contact me. Do not
22 contact me again. I have spoken to police about this
23 and if you continue to contact me I will have to take
24 further action."
25 15:39
26 A. Yes.
27 41 Q. And did you receive any response to that text message?
28 A. I didn't seen a response, no. And I didn't receive it
29 on whatsapp either, but he reached out to Dr. Claire

1 Cullen then later on that day.

2 42 Q. Yes, and we will come on to that in due course. Then
3 if I could ask that we go to the next page of what is
4 on screen. So this is another message you received,
5 Witness A, is that correct? 15:39

6 A. Yeah, so I received this as I woke up the morning of
7 April 1st.

8 43 Q. So you received this before you went to the Garda
9 station?

10 A. Yeah, this is what prompted my trip to the guards. 15:39

11 44 Q. Yes. And the number at the top is +1253 2890459. Is
12 that a number you recognise?

13 A. It wouldn't have been before this, no.

14 45 Q. And I think the Committee can take note of the fact
15 that that is a US number, I think, isn't it, it begins 15:40
16 with +1?

17 A. Yes.

18 46 Q. And I will read out what the message says for the sake
19 of the transcript. It says:

20 15:40

21 "Witness A, when you want you text for stupid reason
22 and start giving stupid patient details. And when I
23 say truth on text you complain of me and make me item.
24 When you want you block me, then yourself unblock. You
25 gawk hourly when you want and when I approach you says 15:40
26 you don't see a point. Refuse to come for coffee and
27 then running behind me with watery eyes whole last day.
28 I can't understand you. I wait six months that maybe
29 you will realise ego and revenge ruin everything."

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And then over the page:

"Please don't give me pain and to yourself. I will be waiting for you at 8pm tonight at Brasserie on the Corner, seafood restaurant, at 25 Eglinton Street, Galway. You can either come alone or with your friend, but please do come as a friend, colleague or whatsoever. Thanks and please unblock mine UK number and Uk What'sup."

And then over the page again it is signed, Hassaan. And then I think the same messages are sent again, is that right?

A. Yeah.

47 Q. On the pages that follow. So if I could just ask you some questions about those messages -- sorry, before I ask you questions, did you reply to these messages?

A. No, I didn't reply directly to those, but the reply that we just spoke about in the text messages, that came after these.

48 Q. Yes. And the reply to the text messages was sent to a UK phone number, isn't that right?

A. Yeah.

49 Q. So there is a -- I suppose there is a suggestion in the message, going back a page in the first half of the messages, there is a suggestion, you know, that you might have expressed some interest in Dr. Chughtai, or that you would behave towards him in a particular way.

1 And there is some reference to ego and revenge. And I
2 just wonder do you want to make any comment about that?

3 A. I think possibly the scariest thing about this message
4 is the way that he mentions ego and revenge, as if I
5 had been thinking about this for the last few months. 15:42
6 I had actually put it behind me, I thought that it had
7 been -- you know once I had left that hospital that it
8 had been done with, but the fact that it was almost
9 building up over those months, it is scary. I feel
10 like it is more his ego and his revenge rather than 15:42
11 mine.

12
13 Absolutely I wouldn't have had any consideration about
14 any sort of meeting him outside of work, or any sort of
15 relationship outside of work. I absolutely did not 15:43
16 consider going there. I definitely didn't consider
17 bringing a friend.

18
19 You know, I actually for the rest of that day I spent
20 the entire time on my own in the house terrified that 15:43
21 he might see me walking back from the police station
22 into the house. And I was on my own in the house that
23 day and I was absolutely petrified.

24
25 When it mentions the running behind me with watery 15:43
26 eyes, that was in relation to I, as interns do,
27 sometimes speak to people on the phone, and it wasn't a
28 particularly pleasant encounter with a GP's secretary,
29 and I got upset by it. It was entirely unrelated to

1 anything that's going on here, but I got upset and I
2 was in the middle of a long corridor and there was no
3 bathrooms on it, so I ran down to the end of the
4 corridor because I didn't want anyone to see me, I was
5 embarrassed that I was upset. And I passed quite a few 15:44
6 people on the way, including my old SHO, who said, come
7 on quickly, just get in here, you know, it happens to
8 us all and was very comforting. But also I passed
9 Dr. Chughtai who at the time I didn't think anything of
10 it other than, like, you know, a sense of dread that he 15:44
11 was there. But I just remember him staring at me and,
12 you know, then he references it was quite scary.
13 Because there was another time that he was in the car
14 park and I just looked back and he was staring at me as
15 well, and I don't know why but they just stick out in 15:44
16 my mind. So it absolutely had nothing to do with
17 him... yeah.

18 50 Q. And do you see on the -- I think on the -- it is not on
19 the screen now, but there is a reference, he says when
20 you want you block me and then yourself unblock. Do 15:44
21 you know what he is referring to there?

22 A. Well, I was blocking numbers, so I was blocking the
23 numbers that he was calling me on the previous day and
24 I unblocked the number to send that message to the
25 Gardaí but, you know, I don't understand essentially 15:45
26 why he inferred from that that I was interested. I
27 didn't try to make him an item. I didn't gawk at him.
28 I tried to avoid him at all costs. I got very much a
29 sense of dread being around him. So I wasn't trying to

1 imply hidden meanings in any of the actions that I was
2 taking and I absolutely avoided him at all costs after
3 the texts in March.

4 51 Q. Yes, and just taking the messages and the phone call on
5 31st March and the messages and WhatsApp on 1st April, 15:45
6 taking all of those together, had you done anything
7 prior to that to sort of invite those on or to cause
8 those messages to be sent to you?

9 A. No, honestly I thought it was behind and I honestly
10 just, it wasn't even on my radar. Like, as I said, 15:46
11 when I got the first message, I thought it was just
12 spam, I didn't even consider that it was still
13 happening.

14 52 Q. Yes.

15 A. So it was quite harrowing to realise that it was still 15:46
16 going on for him.

17 53 Q. Yes. Then the Committee have heard the name Claire
18 Cullen a couple of times today and could you just tell
19 the Committee who Claire Cullen is?

20 A. So she was an intern at the same time as me and we 15:46
21 lived together in Westport when we were working in Mayo
22 between January and July 2016 and she was a friend of
23 mine. I have lost touch with her in the last few years
24 but we would have had a good relationship and obviously
25 when this happened, she was another person who was 15:46
26 working on that service. My other two housemates were
27 in surgery, so they didn't really know him. And she
28 had to work with him directly when they were doing
29 on-call.

1 54 Q. Yes, and did Ms. Cullen contact you on 1st April 2017?
2 A. Yeah, she told me after all of this, I hadn't reached
3 out to her but a few hours later she reached out to me
4 to tell me that he had contacted her.
5 55 Q. Yes, and if I could then ask the TrialView operative to 15:47
6 go down a couple of pages to page 99 -- sorry, I don't
7 know what pagination is being used but maybe down to,
8 sorry, to page 22, excuse me, in the bottom using the
9 pagination at the bottom right. So the Committee is
10 going to hear evidence in due course from Claire Cullen 15:47
11 that she received this large message that's in white on
12 the front of the screen on 1st April at 18:38 and
13 Ms. Cullen will say that the number at the top that
14 begins 35383 was Dr. Hassaan Chughtai's number that she
15 used to contact Dr. Chughtai when they worked together 15:48
16 along with Witness A in Mayo University Hospital in
17 2016. And you will see that -- as I said, Ms. Cullen
18 will prove this message in due course, but you will see
19 the message says:
20
21 "Hi Clare, sorry to disturb you, if you kindly help me
22 in one regard, I did send stupid message to your friend
23 [Witness A] and she is very annoyed. Would you please
24 call her and if possible pass on my apologies. I never
25 meant to offend her but I don't know why always this 15:48
26 happen. Please I would highly appreciate if you do
27 this and please keep it up to you. Thanks, Hassaan."
28
29 And then going to the next page you will see then the

1 next message is sent:

2
3 "Hi, I am Hassaan from...",

4
5 I think that should say "Castlebar",

15:48

6
7 "...if you remember. Can I call you for a moment?"

8
9 And then Ms. Cullen will say that she replied: "No".

10
11 And then Hassaan says:

15:49

12
13 "Okay, will you please do this. I didn't say anything
14 stupid, I just asked her if she would like to come with
15 her friend for dinner but I don't know why she take
16 everything negative. Tell her I am not contacting her,
17 take it easy."

15:49

18
19 And Ms. Cullen will say that she replied saying:

20
21 "Hassaan, I am not involved in this, don't message me
22 either."

15:49

23
24 So did Ms. Cullen let you know that she had had this
25 text exchange with Dr. Hassaan?

15:49

26 A. Yeah, pretty much straight away she sent me the
27 screenshots and I think those screenshots are from her
28 phone that she sent to me but he was -- she sent me,
29 like, the first one and then he was still messaging

1 her, like. So, yeah, she told me straight away because
2 she knew about the situation, she knew that he was
3 bothering me.

4 56 Q. Yes, and if I could just pause at this stage to observe 15:50
5 that if we look at the messages and the PDF that are on
6 the screen at the moment and go back to the first page,
7 the text you received on 31st March 2017 was from a UK
8 number that began +44, the WhatsApps you received the
9 following day which are on page 18 are from a US number
10 that begins +1253? 15:50

11 A. It also could be from another country. I am not 100%
12 sure if it's from the US.

13 57 Q. Yes, and then the message that Ms. Cullen received is
14 from 083-1721269 and Ms. Cullen's evidence will be that
15 that was Dr. Hassaan's Irish number? 15:50

16 A. I'm pretty sure that that would have been the number
17 that we would have had to contact him when we were
18 colleagues.

19 58 Q. Yes, and we are going to come to this in due course but
20 just to help the Committee, do you have any explanation 15:50
21 as to why, what circumstances led to you receiving a
22 text from a number from the US or from whatever country
23 that was?

24 A. So it didn't -- I -- at the time I thought it was maybe
25 a Pakistani number because I know that he also was 15:51
26 there but I kept blocking the numbers and new numbers
27 kept coming up and I just thought, I didn't really give
28 too much thought as to how or why but later on the
29 Gardaí told me that he said that he bought these

1 numbers on an app and that I then, like, looked back
2 and I could see that I had a message from this Hushed
3 service which I wasn't familiar with. And when you
4 logged onto the website or you visited the website, it
5 said you could buy, you know, a number and a 15:51
6 subscription rate and that could be one number or three
7 numbers depending on how much you paid per month.

8 59 Q. Yes, and we will come on to that, witness A, in due
9 course. So, okay, so then I am going to -- sorry, just
10 bear with me for one moment. Could I then ask that we 15:52
11 go down to page 24 of the document please? So could
12 you tell the Committee what this document is?

13 A. So essentially these are text messages that I received.
14 They were a little bit unusual. Again initially I
15 thought that they were spam but I think the very -- 15:52
16 like, I kind of probably wouldn't have noticed it
17 except that the second message, which is a day after
18 the first one, says to come to Coyotes and I was living
19 in Galway at the time and Coyotes was a bar in Galway.
20 So obviously whatever, whoever was sending these 15:53
21 messages knew that Coyotes was, you know, somewhere
22 that I could go to meet them. So, yeah, I felt that
23 these had come from Dr. Chughtai as well.

24 60 Q. Yes, and the number at the top is another +1 number,
25 isn't that right? 15:53

26 A. Yeah, that's also another similarity, yeah.

27 61 Q. And these messages are sent on 7th and 8th July, which
28 is about two months or three months after the previous
29 messages we looked at.

1 A. Yeah, so it was just about before I would have left
2 Galway that I got these, yeah.

3 62 Q. And just for the sake of the transcript, I will just
4 read out what the messages say. So the first message
5 sent at ten minutes past midnight on 7th July 2017
6 says:

15:54

8 "I tried to call you. Don't know. Network issue. Is
9 your call still for sale. Sandy from Texas! I can pay
10 2,000 by cash next week!"

15:54

L2 And then the second message is sent at 42 minutes past
L3 12 in the morning on 8th July 2017 and it says:

15 "Come to Coyotes if you want to meet me",

15:54

L7 and then there is a red flag emoji and a laughing
L8 emoji.

19 A. Yeah, so I don't know this for certain but just the
20 call for sale still thing might be related to something
21 else I received a few years later from Viva Street but
22 I can't really explain this one, I don't know but it
23 just, it was unsettling the fact that it was fairly
24 close by, the Coyotes thing.

15:54

25 63 Q. Yes, and in terms of whether or not Dr. Chughtai sent
26 this message, is there anything else that occurs to
27 you?

15:54

28 A. He is the only person that I could imagine would send
29 something like, you know, late at night from a number

1 with a +1, you know, two days in succession referencing
2 a place that I live nearby. They're all just
3 similarities from other times.

4 64 Q. Yes. And then if we go to the next page, can you tell
5 us what this document is? 15:55

6 A. So this is the Hushed website is what I was referring
7 to earlier, which is essentially where you can go on
8 and buy new numbers on a subscription basis. That's
9 essentially all I know about it and I didn't really
10 understand or see the relevance of it until two years 15:55
11 later. I certainly didn't know anyone else who was
12 using it and I never even considered it was possible
13 until the Gardaí told me that it was something that was
14 possible.

15 65 Q. Yes. So for the sake of the transcript, this is a 15:56
16 message received by you with a number that begins +1613
17 and it is a text message you received on 26th August
18 2017 at 11:36am and it says:

19

20 "Hey, somebody has invited to you to join Hushed. 15:56
21 Check out the app here",
22

23 and there is a link?

24 A. So, yeah, what I think may have happened is that
25 potentially the idea was that he wanted to use it to 15:56
26 contact me but mistakenly put my number into some sort
27 of other box that actually invited me instead of texted
28 me. So I think that's potentially what might have
29 happened.

1 66 Q. Yes, and if I could then ask, and this is the last
2 document I am going to look at this evening, Committee
3 members, if I could then ask if Trialview could -- if
4 tab 64 could be uploaded to TrialView. So, witness A,
5 do you recognise what's on the screen now? 15:57
6 A. Yeah, so that looks like that Hushed website
7 essentially.
8 67 Q. Yes. Did you provide information about Hushed to the
9 Medical Council in relation to your complaint?
10 A. Yeah, because I had received that text message then, I 15:57
11 looked it up and I explained what it was and I think
12 this was, this was what was found essentially.
13 68 Q. Yes, and there are a lot of pages in this exhibit which
14 I am not going to read through but at the top there it
15 says: 15:58
16
17 "Temporary and second phone number app for WiFi, data
18 calling and texting."
19
20 And then I know it is difficult to read it on the 15:58
21 screen but it says:
22
23 "Make private WiFi and data calls, send texts, picture
24 messages and manage multiple numbers all in one easy to
25 use app. Stay protected and stay private with Hushed." 15:58
26
27 And then on the next page, this is all from the Hushed
28 website I think, it says:
29

1 "Protect your privacy. Get a second number with
2 Hushed. Perfect for any situation when you we need to
3 give out a phone number to use for calling and texting.
4 Keep your real number safe and completely separate."

15:58

6 And then it talks about pricing and then it says:

8 "Multiple number, multiple devices, any situation. Add
9 and manage as many numbers as you would like in one
10 simple app. Get all the benefits of a second phone
11 number without carrying another phone with you.
12 Perfect for dating, online classifieds, business,
13 travel and more."

15:58

15 And then if I could just ask if by way of illustration
16 only if we could go down to page... sorry, I am not
17 sure which pagination is being used there but if we
18 could just scroll down a bit in the pagination by about
19 ten pages or by about 15 or 20 pages perhaps to towards
20 the end of the document. So, Committee members, you
21 will see there that this appears to be on the website,
22 all of the different area codes and numbers that can be
23 obtained from this Hushed app, isn't that right,
24 Witness A?

15:58

25 A. Yeah.

15:59

26 69 Q. Yes, and that's what was referenced in the -- that app
27 is what was referenced in the text you received on 26th
28 August 2017?

29 A. Yeah.

1 70 Q. okay. In terms of my, chairperson, in terms of my
2 examination of witness A, that is actually a useful and
3 natural breaking point and I would say I am halfway
4 through.

5 CHAIRPERSON: Great, thank you very much, Mr. McDowell, 16:00
6 that's very helpful. Thank you, witness A, for your
7 attendance today. So that then leaves us to adjourn
8 for this evening and we will resume at 10 o'clock
9 tomorrow. So a couple of matters, Mr. McDowell, to
10 just remind you of, not that I suspect you need 16:00
11 reminding, but if the transcript of today's inquiry
12 could be provided to Dr. Chughtai and if it could be
13 communicated to him that the Committee would be keen to
14 hear medical evidence for his absence. That would be
15 very useful. The Committee has some business at 9 16:00
16 o'clock tomorrow which we hope will be finished in an
17 hour but we may be delayed somewhat slightly, so I
18 offer my apologies in advance if we are delayed. But
19 that will conclude matters for this evening and thank
20 you, witness A, again for your attendance today and we 16:00
21 will see you tomorrow.

22 WITNESS A: Thank you.

23 MR. McDOWELL: Thank you, chair.

24

25 THE HEARING WAS ADJOURNED TO 10AM ON THURSDAY,
26 18TH APRIL 2024
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