
***Inquiry into the Retirement of the Former Commissioner of Police Mr Ian
McGrail
("the Inquiry")***

**Directions of the Commissioner in relation to certain procedural matters
following the First Preliminary Hearing held on 22 June 2022**

25 August 2022

UPON HEARING counsel to the Inquiry and counsel for those currently designated as Core Participants

AND UPON CONSIDERING further written submissions from counsel for Mr McGrail and counsel for the Chief Minister Fabian Picardo QC, the former Deputy Governor Nick Pyle OBE, and the Attorney General for Gibraltar Michael Llamas QC

In exercise of his powers under section 6 of the Commissions of Inquiry Act 1888, and applying the principles of open justice as the Commissioner has found them to apply to the particular circumstances of this Inquiry

IT IS DIRECTED THAT:

1. Open justice. the principle of open justice shall apply to this Inquiry.
2. Public hearings. Except where the Commissioner orders otherwise, all the hearings of this Inquiry, including the preliminary hearings, will be held in public, open to the public and press.
3. Timetable. The timetable and agenda for the hearings will be published in advance, and posted on the Inquiry's website: <https://coircomp.gi/>.
4. Transcripts. All the Inquiry's hearings should be transcribed and the transcripts made available on the Inquiry website as soon as is practicable after the hearings, subject to any redactions which the Commissioner may direct, in accordance with the relevant issued policy.
5. Publication of evidence. Witness statements, documentary evidence and exhibits will be published on the Inquiry website (with authorised redactions) as soon as possible after the witness has given evidence. The Inquiry Team should aim to do so by the next sitting day.
6. Publication of submissions. Submissions will be published online on or as soon as possible after the first day that they are deployed in an open hearing. In relation to the submissions made following the First Preliminary Hearing, the following paragraphs should be redacted prior to publication: (a) Part B (paragraphs 7-17) and the second and third sentences of paragraph 49 of Ms

Gallagher QC's submissions dated 20 June 2022; (b) Part B (paragraphs 6-23 of Sir Peter Caruana QC's submissions dated 8 July 2022; and (c) paragraphs 18-32 of Ms Gallagher QC's submissions dated 20 July 2022.

7. **Redactions**. Parties must apply for redactions, in accordance with the published policy, in good time before each hearing, so that documents can be published efficiently during the hearing.
8. **Referring to factual background at Second Preliminary Hearing**. At the Second Preliminary Hearing, counsel for Mr McGrail may, briefly and to the extent that it is relevant to the issues before me at that hearing, set out the factual background of Mr McGrail's claims. Counsel for the Government Parties may similarly briefly respond to these allegations. The Core Participants are invited to submit suitable short draft statements, which the Commissioner will consider and adjudicate upon (providing reasons if required) in advance of the Second Preliminary Hearing.
9. **Live-streaming**. The proceedings of the Inquiry will not be live-streamed.
10. **Remote attendance**. The Commissioner will consider on its merits any application by an individual person to attend hearings remotely. Relevant considerations will include, but are not limited to:
 - (i) the reason why the individual cannot attend in person (e.g., their location or any relevant condition relating to mobility, illness or disability);
 - (ii) whether they have a specific interest in the in the hearing (or any particular part of it);
 - (iii) why reliance on published reports is inadequate; and
 - (iv) the costs and practicalities of complying with the request in the time available.
11. **Questioning of witnesses**. By way of indication of the Commissioner's proposed approach to the questioning of witnesses at the Main Inquiry Hearing, and subject to any restrictions, limits or controls that he may impose on such questioning bearing in mind the overriding objective of fairness, and without deciding the exact format of questioning:
 - (i) Witnesses will first be examined by counsel to the Inquiry;
 - (ii) Mr Picardo QC, Mr Llamas QC, Mr Pyle, by their counsel, will be allowed to cross-examine Mr McGrail (and maybe his corroborative witnesses);
 - (iii) Mr McGrail, by his counsel, will be allowed to cross-examine Mr Picardo QC, Mr Llamas QC and Mr Pyle (and possibly others);
 - (iv) The position of each witness will be considered on a case-by-case basis. The appropriate time to determine the format for cross-examination of each witness is at the Final Preliminary Hearing, currently scheduled to take place in late January or early February 2023. Whenever a person is accused of such serious misconduct that his good name and reputation is imperilled, he should generally have the right to cross-examine his accuser.

12. Power of Commissioner to make recommendations. In accordance with section 6 of the Commissioners of Inquiry Act the Commissioner will make such recommendations in his Report as he thinks fit.

Sir Peter Openshaw DL

Commissioner

25 August 2022