

1st Affidavit:

Ian McGrail

Date: 20th June 2022

Exhibits: 1 to 4

INQUIRY INTO THE RETIREMENT OF
THE FORMER COMMISSIONER OF POLICE

FIRST AFFIDAVIT OF IAN MCGRAIL

I, **IAN MCGRAIL** o Personal Data Gibraltar **MAKE OATH AND SAY** as follows:

1. I make this preliminary Affidavit pursuant to the request of the Commission in its letter dated 4th April 2022.

2. This preliminary Affidavit is intended to give the Inquiry a summary of the key events which are relevant to the Inquiry's Terms of Reference, prior to receipt of disclosure from the Inquiry and without sight of statements from other witnesses. I intend to provide more detailed witness evidence in due course, but provide this preliminary Affidavit to assist the Inquiry at this stage of the proceedings

3. I have appended to this statement:
 - 3.1. **Exhibit 1** - Correspondence between me, my representatives, the Gibraltar Police Authority, the Interim Governor, the Chief Minister and the Attorney General, relating to my early retirement.

3.2. **Exhibit 2** - Text message exchanges between myself and various public officials on the 12th May 2020 relating to a criminal investigation given the code name “Operation Delhi”, described below.

3.3. **Exhibit 3** - Notes of a meeting which took place on the 12th May 2020 relating to Operation Delhi.

3.4. **Exhibit 4** – WhatsApp exchanges between myself and various public officials from the 8th March 2020 onwards relating to an accident at sea which occurred on the 8th March 2020 and which was given the operational name “Operation Kram”.

(i) *Summary of my career*

4. I joined the Royal Gibraltar Police (“**RGP**”) in October 1984 as a constable and worked up the ranks serving in various departments in both operational and support roles. Throughout my career I have maintained an unblemished disciplinary record. I have been awarded the long service and good conduct medal with first and second clasps. In the 2015 Queen’s Birthday Honours List I was awarded the Overseas Territories [Police] Medal by Her Majesty the Queen for meritorious service. I am also the recipient of the St John’s Ambulance long service medal for voluntary service and both the Queen’s Golden and Diamond Jubilee medals.

5. On 1st May 2018, I was appointed as Commissioner of the RGP for a four-year term of warrant, on the advice of the Gibraltar Police Authority (“**GPA**”). The appointment was due to end in May 2022.

(ii) *The Operation Delhi investigation*

6. The account which follows is largely based on information which is publicly available, except for in relation to meetings and messages which relate directly to the matters which are the subject of this Inquiry, that is relating to improper pressure put on me by Michael

Llamas QC, the Attorney General (“AG”), and Fabien Picardo QC, the Chief Minister (“CM”), in relation to the Investigation.

7. On 15th October 2018 Operation Delhi was commenced. This was a ‘re-active’ investigation arising from a complaint about serious computer hacking / sabotage offences and an alleged conspiracy to defraud. I provided a witness statement for this case covering a couple of meetings I held with Mr John Perez, a retired Royal Gibraltar Regiment Lieutenant Colonel, one of the suspects/defendants and about specific taskings I gave to the Head of Special Branch at the time, Detective Inspector Paul Chipolina, to establish the extent of the malfunctioning of the platform and how to go about reporting them.
8. In brief, the National Security Centralised Intelligence System (“NSCIS”) platform is designed to provide a series of biometrical and other control measures at the entry and exit points of Gibraltar’s border with Spain. These measures range from, but are not restricted to, facial and vehicle number plate recognition and lists of nominals of interest to law enforcement agencies. Its value, therefore, cannot be underestimated more so when one considers Gibraltar’s position as (i) a strategic military “Forward Mounting Base” with an RAF airport, naval base, including Z-berths for nuclear powered warships (ii) a thriving financial centre, (iii) a popular tourist destination and (iv) a very important shipping industry, all of which contribute to the local economy but equally also present themselves as appealing targets for terrorism or serious and organized crime.
9. For these reasons the operators of the NSCIS in the RGP were Special Branch and Force Intelligence Unit - it was these two units who fed in and received data on behalf of the RGP. Given that the alleged criminal behaviour related to the hacking / sabotage of the NSCIS platform providing a service that contributes to the safeguarding of Gibraltar’s National Security, I requested a meeting to brief the CM, the Minister of Justice at the time (Neil Costa), the AG, the Chief Secretary (Darren Grech), the Director of Public Prosecutions Christian Rocca QC (“DPP”) and the Financial Secretary, Albert Mena.
10. I was accompanied to this meeting by Superintendent Richardson. At that briefing which was held on 13th May 2019, the CM directed the Chief Secretary to formally make a complaint too on behalf of the Government of Gibraltar (“HMGoG”). Another of the suspects was Mr Caine Sanchez, a senior civil servant and personal assistant to the Deputy

Chief Minister, Dr Joseph Garcia. I separately briefed the Governor at the time, Lt. General Ed Davis during one of our monthly briefings and he was as concerned, as I was, that part of Gibraltar's ability to safeguard our national security had been compromised in the way it was being alleged.

11. The investigation then began its course and apart from periodic briefings which I received from Superintendent Richardson, the senior officer in the investigating team, my personal involvement in the case was limited to requesting assistance from the Director General of the UK's National Crime Agency ("NCA"), Lynne Owens, for specialist computer forensic investigation support. Having met the technical team that the NCA kindly sent to assist, I was informed by them that the '*actus reus*' in this case was at a level of sophistication akin to that which foreign state actors could attempt in an attack on the UK's security apparatus.
12. Because of the complexities of the case, I was aware that the investigating officers were consulting with the Office of Criminal Prosecution and Litigation ("OCPL"), particularly with the DPP. I also discussed the investigation with the AG on a few occasions when he brought it up and very briefly verbally went over the evidence and progress made. I would normally provide these briefings on the back of other subject matters that I had met the AG on. The AG was initially enquiring about what evidence we were coming across and I was content to disclose this verbally to him, albeit in a very brief fashion.
13. During these briefings, the AG would express views of how chaotic and messy the matter was for HMGoG on a number of fronts; no government official other than Caine Sanchez knew the ins and outs of the dealings between the service provider of the NSCIS platform and HMGoG; the AG expressed concern over how all this was being managed internally by HMGoG with the consequent potential embarrassment to the administration.
14. There was also an apparent dispute about who were the owners of the NSCIS platform i.e. the intellectual property rights of the software. On the one hand the service providers, Bland Ltd, stated they were the owners (and they provided evidence and arguments to prove this from Sir Peter Caruana QC, lawyer representing the complainant, Bland Ltd) whilst on the other, HMGoG were claiming they were the owners but at the time were unable to provide evidence in support of this. With time, other parties would join us in the meetings to discuss Operation ("Op") Delhi – these would be Senior Crown Counsel Lloyd Devincenzi, Superintendent Richardson, DI Mark Wyan, and the DPP. Not necessarily would all of us

- be together at all the meetings though we were for the last two or three. I believe Superintendent Richardson prepared a timeline of communications in this regard.
15. During at least two of the meetings at which I discussed Op Delhi with the AG, he enquired whether Mr Caine Sanchez could be dealt with internally via the Civil Service disciplinary route. At the time Mr Sanchez I believe was interdicted from the Civil Service following his arrest with three other suspects (John Perez, Thomas Cornelio and Eddie Asquez), though the said interdiction was subsequently lifted. I briefly imparted the evidential information I had from the investigating officers that Mr Sanchez was suspected of a conspiracy to defraud together with the other suspects and possibly other persons – and therefore treating him differently to the others would be totally unjust.
 16. The AG also advised that the investigation should not progress until such time as the question of ownership of the NSCIS platform was clarified. This was a matter that the investigation team had already identified and were working to address together with the DPP. It was my understanding that the question of ownership of the platform, though important, was not critical to the prosecution of the suspects.
 17. At a point during one of the meetings with the AG and whilst discussing the issue of ownership of the platform, the AG mentioned what he described as a hypothetical situation, enquiring what the RGP's position would be in terms of pursuing the investigation were it to be assumed that HMGoG were the defined owners of the platform and that they *consented* to the alleged hacking / sabotage taking place. The AG's thinking really startled me despite it being a hypothetical situation. I was beginning to read that there were seemingly some signs of reluctance from HMGoG being transmitted by the AG for this investigation to proceed. I expressed my concerns there and then about this thought process, exclaiming that if it were the case as suggested, that HMGoG had consented to the hacking / sabotage, they would by default have been part of the alleged conspiracy to defraud Bland Ltd of the contract to run the platform. The AG agreed with me and we agreed to literally rubbish the hypothetical situation. It nonetheless left me bemused and to a degree worried that the suggestion had even been mooted by the AG.
 18. Another person who featured as a subject of interest in the investigation was Mr James Levy CBE QC (“**JL**”), the Senior Partner of Hassans – the AG and CM were fully aware of this as this fact featured in the original briefing delivered to them on 13th May 2019.

19. I also held conversations with the AG on some concerns I had about the link between the suspect company “36 North Ltd” which was owned by Mr Perez, Mr Cornelio, JL and a company named Astelon Ltd, whose shareholders were all the partners of Hassans law firm. The names of the CM, another government minister Mr Gilbert Licudi QC, the Financial Secretary Mr Albert Mena and a shadow minister of the opposition, Mr Daniel Feetham QC, featured as beneficiaries of this company that owned 36 North Ltd. He acknowledged that he also had similar concerns and discreetly advised me that he would be addressing these in due course.
20. The AG was also fully aware that JL was a subject of interest in the investigation but we had not discussed when he was going to be dealt with. What was discussed was that I was hopeful that JL would provide an account that would clarify many of the suspicions that hung over him. I was saying this knowing how the reputation of Gibraltar could potentially be tainted if indeed JL was found to be criminally liable. I was also clear that if JL had questions to answer as a suspect in the matter, that due process had to be followed. However, we would not know what, if anything, he would say until he was approached by the investigating officers. I acutely knew this would be a sensitive matter due to the professional connections JL has with the CM, other Members of Parliament and the Financial Secretary.
21. As the investigation was approaching its conclusion the AG advised that he would want to be consulted on the charges that we were considering to proffer. He was aware that there were many counts of the same alleged offences and there was no need to proffer repetitive charges, something with which I totally agreed. It is common knowledge and practice when there are multiple similar offences for which charges could be proffered that prosecutors opt for sample charges instead. I agreed with him that it would be best to consider sample charges. By way of example he illustrated in his writing pad, in the presence of Superintendent Richardson and Senior Crown Counsel Devincenzi, that 80-odd charges could be streamlined to say 25 and perhaps even further to 17 – and asked from these how many would apply to Caine Sanchez. I asked him to rationalize these thoughts but he replied saying this was just an example. The concept of providing sample counts instead of a proliferation of charges is based on being able to capture as much of the evidence as possible of all the alleged criminal behaviour and for this to be reflected in a reduced charge format. I was asking for the AG’s rationalisation to better understand whether he was considering doing away with certain types of offences or simply reducing the repeated

counts i.e. was he thinking of samples of the alleged unauthorised access to computers and do away with the conspiracy charges or was he considering both – and which counts would be considered and which would not, and why.

22. Notwithstanding this, the question of proffering charges was still in my view premature because the investigating team still had to interview JL. His interview could lead to more counts being added or clarify matters and therefore generate less counts. It was clear to me and the investigating team that charges could not be proffered until all enquires with suspects had been closed. That particular meeting ended with the AG asking us to revert to see him once we had listed all the charges that had been uncovered.
23. Towards the end of February 2020, Superintendent Richardson emailed me his rationale under the “National Decision Model” (“**NDM**”) which is a model used by UK police forces to log a decision-making process. He did so because of the sensitivities attached to this particular case. It included the investigating team’s assessment of JL’s suspected criminal liability and how they intended to address him. Based on the information provided by Superintendent Richardson I concurred with his approach but asked him, by return email, to engage with the DPP to ensure the team’s assessment was correct. I understand that Superintendent Richardson did in fact communicate with the DPP who confirmed that JL was to be treated as a suspect. Furthermore, that he would not advise on the team’s intended course of action as this was purely an operational matter for the RGP to decide upon but that he would defend the actions if and when it was needed to - Superintendent Richardson will no doubt be able to corroborate this. The way persons who are suspected of having committed a criminal offence are dealt with is enshrined in law in the Criminal Procedure and Evidence Act (“**CPEA**”) and its accompanying Codes of Practice. Evidently, the law does not distinguish between the status of one suspect or another in terms of process that has to be applied by an investigating officer.
24. During one of the meetings with the AG, as we discussed Op Delhi, he advised that he would be taking a step back from discussing the criminal investigation as he was now advising HMGoG on the intellectual property rights of the NSCIS platform case and it was not compatible to advise on both matters. I cannot recall whether this was before or after the discussion about the charges but believe Superintendent Richardson has a timeline concerning this matter.

25. A difficulty the investigating team encountered for quite a number of months was that of securing evidence from HMGoG with regards to their complaint. This can be confirmed by the investigating team themselves. I was made aware that counsel representing those arrested made a number of submissions in writing in an attempt to derail any intended prosecution. These submissions were duly considered by the investigating team who remained in consultation with the DPP and/or his appointed Crown Counsel for the matter. They did not change the direction the investigation was taking.
26. It is important to note at this stage that the last of the submissions from those arrested presented by defence lawyer Robert Fischel QC was shared by the AG with the Chief Secretary, Mr Darren Grech. Even though the Chief Secretary, as complainant on behalf of HMGoG stipulates that his statement for the case was not based on the submissions provided by Mr Fischel QC, it is evident that the arguments made are the same. I am in a strong position to believe that the Chief Secretary took stock of Mr Fischel's submissions when writing his statement simply because the Chief Secretary had on a previous occasion told me he was totally oblivious of how the NSCIS platform was being managed by HMGoG as this preceded his time in office. Furthermore, that he did not have access to or indeed could not locate any documentation on the matter let alone prove that HMGoG were the owners of the platform. I had also commented to the AG how awkward it was for the Chief Secretary to have to be the face of HMGoG with regards to this complaint when he was totally oblivious of the arrangements that were in place. To this the AG replied that the Chief Secretary was the one now in office and he would have to front the matter and provide the necessary evidence.
27. I also attended a meeting (I cannot recall the date) in what is known as "The Bunker" at No 6 Convent Place with the Chief Secretary, his legal representative, Senior Crown Counsel Lloyd Devincenzi, Superintendent Richardson and Detective Inspector Wyan. The meeting was to go over the evidence secured so far which incriminated the senior civil servant Caine Sanchez. I recall certain documents were read over to the Chief Secretary which contained correspondence between JL and Mr. Sanchez. I remember the Chief Secretary expressing shock at what was being explained to him. DI Wyan and/or Superintendent Richardson took notes of this meeting. The Chief Secretary therefore knew that JL was also a person of interest in the investigation but this was not discussed further at this meeting.

(iii) Execution of the search warrant

28. On the 12th May 2020, I was aware that the Op Delhi investigation team was going to execute a search warrant at the office of JL and his residence and that he was going to be invited for interview under caution at a later date. I was not aware at what time the team would be executing the warrants but I had asked Superintendent Richardson to inform me just before he was going to do so.

29. I was at a COVID-19 meeting at “The Bunker” at about 1220hrs when I received a text from Superintendent Richardson who was about to execute the warrants. I notified the CM, the Minister for Justice (“**MoJ**”) and the AG of the team’s action. The MoJ was in the same meeting I was at and she acknowledged my message, thanking me. Both the AG and CM also replied by text message expressing discontent at the action we had carried out. At 1228hrs, the AG responded with *“Ian, we had agreed that you would come to me with a rationalization of charges before doing anything?”* At 1229hrs, I messaged the AG – *“We agreed we’d do that when all the loose ends were tied up and this included the enquiries with JL.”* At 1230hrs the AG replied, *“No. that was not what we agreed.”* I then offered to go round to his office straight after the meeting I was in.

30. At 1234hrs the CM messaged with:-

“Ian, thank you for the courtesy of this information. I think that is a bad decision. A search warrant should only have been sought if you believed that the person in question was not going to cooperate and will try to destroy evidence. If, as you say, you are hoping for cooperation, especially in a case involving senior Silk and head of Gibraltar’s largest legal firm, you should, in my view, first have sought to contact that person and obtain cooperation. Given my close personal relationship with JL, I won’t comment further.”

31. To this message I replied, *“Noted CM.”*

32. However, a short while later, I was called out from the meeting I was in and requested to go to see the CM and AG who were asking to see me. I excused myself from the meeting and went up to see the CM and AG. I was seen into the Cabinet Room where I waited for a few minutes before the CM and AG entered the room from the CM’s office. I distinctly

recall the AG was wearing a t-shirt and jeans. There I received the dressing down of my 36 year law enforcement career. I was asked by the CM in a condescending tone what was I doing executing the warrant on JL. In what was a barrage of comments the CM stated words to the effect in both the English and Spanish language:

“What are you doing Ian, this is a complete blunder. Why go with a warrant? Do you suspect Jaime (JL) has committed a crime? Look, Jaime can be many things and he has been in messes before but he is not a criminal. He is a senior Silk, head of the Jewish community, helps out the RGP if needed, he is the head of the biggest law firm in Gibraltar and he has a very good reputation as a lawyer. Are you suggesting that Jaime would destroy or dispose of evidence? You know Gibraltar, this will get out. You are managing this investigation very very wrongly. Why didn't you ask him to give you what you needed?”

33. The CM's tone caused me serious concern and I thought carefully of what I should be responding with. I said that what the team were after were devices which we knew JL would not hand over unless compelled to do so with a warrant. CM said words to the effect *“but have you asked him?”* I felt the CM was questioning an operational decision on a live criminal matter and that this was not appropriate. He stated that he would be calling in the RGP senior command team to address us on how inept we (the RGP) were at investigating white collar crime. I advised him that the warrant had been signed by a judge who was satisfied with the information which had been laid before him and that all the grounds to deal with JL had been consulted with the DPP. The CM arrogantly exclaimed that it was very easy to obtain a search warrant and that we had been wrongly advised. It was evident that the CM was very angry that we had obtained a warrant without considering a voluntary handing over of the material we were after. I posed the question whether he genuinely believed JL would be handing over the material if asked without a warrant. CM said he would not and that if he represented JL he would advise him not to make any comment during interview.

34. There was a heated debate on whether the actions of the team were proper or not, with me saying they were and the CM saying they were not. I stated that it should be left for the courts to decide who was right or wrong. I said this because CM said that JL should not hand over his mobile device to the RGP but should do so to a court. He said he hoped that I was right and that he was wrong as there would be consequences if he was found to be

right, in that we had not conducted ourselves properly in this matter. I took this as a sort of threat from the CM. I was struggling to understand how the CM was seemingly aware of parts of the evidence gathered in Op Delhi e.g. he was challenging the need to obtain JL's devices when, he claimed, the investigating team already had the data we needed from the other suspects. What had been extracted from the suspects' mobile devices was information that only the investigating team and the DPP (and crown counsel) would have been privy to. It is certainly not something I would have expected the CM to have been aware of. The CM also made a passing but seemingly unconnected comment that he had earlier that morning been speaking to JL about the re-opening of the places of worship – this related to the pandemic.

35. I was further reprimanded by the CM for not having made the AG aware of the team's intentions. According to the CM, the AG should have been aware of the intervention as he is the Leader of the Bar and heads the disciplinary committee for the Bar. That JL was an officer of the court, like he and I was and therefore he deserved to be treated with the respect this merited, adding that we had acted unethically against a 'fellow officer of the court'. Again, I found this comment to be wholly inappropriate because in effect what the CM was asking me to do was to provide prior advance notice of operational activity, something which is not the norm when dealing with persons who are suspected of criminal liability.
36. Moreover, I could not understand how the officer of the court status that the CM was relying on could actually override and take precedence over the status of 'suspect' – it simply did not make any sense to me. As far as I know, the "officer of the court" status does not provide any protection or privileges to persons suspected of criminal liability. I specifically referred to the CM that the suspicions were focused on JL and not Hassans as an entity because he was asking why we had opted for a search warrant and not a production order (which is a recognised method of obtaining evidence from a financial institution or lawyer's chambers, but this when the institution or chambers are not necessarily suspected of having committed a crime, furthermore, I understand that text messages etc are not obtainable on a production order). I also reassured the CM that the handling of the devices seized from JL would be treated in accordance with procedures to protect any legally privileged material contained in them, The CM replied "*that is what you say*" to which I responded "*you will have to trust me*".

37. The CM further asked why the RGP were not focusing on Mr Chris Miles, a Barrister in private practice in Gibraltar, rather than JL. I found this startling in the sense that he was asking me to apply different standards to Mr Miles who was also an officer of the court. The CM also added that his reaction to the investigating team's actions were not because it had been carried out on JL – that he would have reacted the same way had it been other prominent lawyers citing Mr Melo Triay and Sir Peter Caruana as examples.
38. The CM also expressed a critical view that the complainant in the case, Mr James Gaggero, the Chairman of Bland Ltd, was actually using the RGP, and that the RGP was knowingly allowing itself to be used, to pursue what in essence was a commercial dispute without there being any conspiracy to defraud. This comment fazed me on two fronts; firstly, he was totally wrong to believe the RGP was being manipulated by James Gaggero. I had initially received Mr Gaggero's complaint but then passed the matter on to a team headed by Superintendent Richardson who liaised with Mr Gaggero and his lawyer, Sir Peter Caruana QC, whenever this was needed. Secondly, what was it that the CM knew in terms of the evidence gathered which caused him to think that no alleged conspiracy to defraud had been uncovered? He said that if Caine Sanchez was corrupt that it was HMGOG that had to make the complaint. I told the CM the charges Caine Sanchez could face were that of misconduct in public office – he said that even for that offence, it had to be HMGOG that had to lay the complaint – something which to that date had not materialised.
39. What I took from this comment was that the CM was stating that the RGP could not proffer charges against Caine Sanchez without HMGOG's complaint. This significantly resonated with the AG's previous suggestions that Caine Sanchez should be dealt with via the Civil Service disciplinary route. The CM was very firm that HMGOG were the owners of the national security platform and therefore they were the principal complainants. I told him we had requested evidence to support this from the outset but that it had not been forthcoming. I also informed both the CM and AG that the question of ownership of the platform was not critical to a prosecution – this is what I understood from the investigating officers who had held consultations with the DPP about this matter specifically.
40. Returning to the reference to Mr Gaggero, the CM was alluding to an encounter with the former about the executive action carried out by the investigating team on the original Op Delhi suspects, Messrs Perez, Cornelio, Asquez and Sanchez, claiming the inappropriateness of the RGP disclosing details to Mr Gaggero of when the action was

going to be carried out. Superintendent Richardson's explanation for this was that Mr Gaggero's lawyer, Sir Peter Caruana, was wanting to initiate civil proceedings against the suspects but we had advised them to hold fire in order not to compromise the criminal investigation. In providing updates to Mr Gaggero, Supt Richardson had advised him of the day the action was to be carried out so that his lawyers could from thereon progress the civil case/claim. I understood from Supt Richardson that Mr Gaggero had urgency to progress the civil case. That Mr Gaggero inappropriately divulged this to the CM in a chance encounter is unfortunate but it is not something which in my view the RGP should be criticized for given the explanation that can be afforded by Supt Richardson and Mr Gaggero himself. I know that Mr Gaggero apologised straight away to Supt Richardson after this disclosure was brought to our notice and the Superintendent challenged him about it.

41. The CM also stated that the actions carried out by the team bore serious implications – he referred to the Financial Secretary, another minister, a member of the opposition and himself all being partners in Hassans and how those in Spain who describe Gibraltar as a pirate's haven would have a field day if this leaked out. He also referred to Mr Rosety, a Spanish Parliamentarian from the right-wing party VOX who was already asking parliamentary questions in connection with the collision at sea on the 8th March 2020 and that he would also capitalise on information about this investigation if this came out publicly. He brought this up as I had emailed him on this matter a couple of days earlier as will be explained further on in this statement and in particular in the part covering the collision at sea.
42. I was finding it very complex to appease the CM's viewpoint and thought it best under the circumstances not to force any further argument which is why I insisted that a court would be the appropriate authority to decide whether the team's actions were unlawful as the CM was inferring.
43. For his part the AG stated, in a highly emotional tone that I had betrayed him because the action carried out by the team was not what had been agreed with him. Notwithstanding that what the AG stated was incorrect, the AG has no operational remit and his address to me in this regard was wholly improper, more so when he had on a previous date said that he was steering clear from advising on the criminal case. As previously stated in this statement, I did not enter into any agreement with the AG to suspend the carrying out of

further enquires until after we had discussed charges that could be proffered. The AG appeared to have misunderstood what we arranged. Yes, I had agreed to revert to him with the proposed charges but certainly not before all the key enquiries were completed – it would not make any sense to do so beforehand and I would have expected the AG for Gibraltar to have understood this. I felt totally cornered and hounded having to explain a tactical decision on a live criminal investigation. The AG said words to the effect “*Ian, I liked you and how you worked, but as from today I cannot entertain you again*”. This really shocked and hurt me. The AG could not be more mistaken. It was not a position that the RGP had put itself in. We had been following proper lines of enquiry and the team had acted appropriately, without fear or favour. I was fully cognisant of the potential reputational damage in a number of quarters but stood by the investigating team in what I considered to be a thorough and worthwhile investigation that they were doing.

44. No other topic was discussed at that encounter. No reference was made about the HMICFRS report or the collision at sea (Op Kram) other than the very brief mention regarding the Spanish Parliament question. Certainly nothing was said or asked about how the collision at sea investigation was progressing or if the CM had any concerns about this matter or other matters.
45. I left the Cabinet room quite shaken and in utter disbelief; I had somewhat expected there to be reactions post to the search warrants being executed on JL but never did I anticipate the level of chastisement I was subjected to. I have had a few previous unpleasant encounters with the CM but none reached the levels I experienced on that day.
46. As I was going down in the lift to leave No 6 Convent Place, I could not help but consider crossing over the road to brief the Governor, NP, on the experience I had just been subjected to, more so the threat directed by the CM. I opted in not doing this purely out of a sense of loyalty to the CM and AG. I was optimistic that there would be a tempering of moods and that our differences could be aired and settled another time/day.
47. When I arrived at Police HQ, I gathered the Command Team together and briefed them on the situation. I particularly remember the then Superintendent Cathal Yeats (now Assistant Commissioner) advising me to report the matter up to the Governor and GPA as this was a serious enough issue which I was briefing them on. I took his advice and made arrangements to brief the GPA Chair. I still did not want to raise my concerns with the Governor out of deference to the CM and the AG, because I harboured the hope that their

mood would be tempered and that our differences could be resolved, and because NP was only interim Governor with Sir David Steel, the new Governor, expected to take up office very soon. With the benefit of hindsight I should have done so. What I also did was write notes of the encounter on the office PC or work laptop. If I remember correctly, I saved the notes on the desktop and not on the server. Later that day, I emailed these notes to myself.

48. That same day at 1420 hrs, I requested to meet with the GPA Chair face to face. I met him in my office (I am uncertain whether this was on this day or the 13th May) where I briefed him – also present was Assistant Commissioner Ullger. I needed to inform someone independent and in authority of the concerns I held about the inappropriate interference with a live criminal investigation. At the time I was perhaps naïve and optimistic to think that the animosity expressed towards me would resolve itself with time. The GPA Chair also expressed his hopes that the issues would fade away with the passage of time. The GPA Chair must have seen I was badly affected when he made a welfare check phoning me at 2130hrs on 13th May 2020 to enquire how I was, something which I was very grateful for. On this day I also updated my notes of the previous day and corrected some typos in red of the original notes resending them to myself via email.

49. I also received some reassurance from the MoJ when I spoke to her in private on the fringes of a COVID meeting at the bunker on the 13th or 14th May 2020. I expressed my concern that my good relationship with the CM and AG had been fractured following the actions of the previous day. She reassured me that she held no concerns about the actions we carried out, that she was not in the least surprised of what we had done and that with time the relationship would recover.

50. The encounter of the 12th May 2020, left me quite scarred and hurt. I felt I needed to clear the matter with both the CM and AG but first thought to contact the AG. At 1833hrs that same day I messaged him with;- *“Michael - we both are disappointed but I just can't leave the matter as it is. I'd like to meet face to face. We have to work together & your wrong impressions about me need clearing up.”*

51. At 1841hrs the AG replied to my message saying

“Ian, it would not be constructive to meet, at least not for now. For me it was abundantly clear what we had agreed and there is therefore very little to discuss about that. All I have tried to do is to help you in all of this and to protect Gibraltar plc which is what I

have spent all my life doing. I feel very, very let down. A serious breach of trust has occurred.”

52. At 1843hrs I replied to the AG as follows – *“I respect your view not to meet but totally refute any breach of trust. We’ll agree to disagree.”*

53. At about 0700hrs on the 13th May 2020, whilst having breakfast and getting ready to go to work, I saw that the AG had sent me an email at 2312hrs the previous day. The email contained a thread from Lewis Baglietto QC, a lawyer from Hassans representing JL, who was challenging the actions of the RGP investigation team the previous day. Amongst many of the issues raised it was alleged that the RGP had seriously abused the law and its powers. There was a request by Mr Baglietto to meet with the AG and the RGP. The AG suggested that both he and I meet with Mr Baglietto. My initial reaction after reading the email from Mr Baglietto was that I disagreed entirely with his comments and I that would be amenable to meet. I replied to the AG’s email with;

“I am seeking a written response from the investigation team on Mr Baglietto’s email below to you. I would rather the meeting takes place at a later time today to allow them time to prepare this for me.”

54. The AG accepted to defer the meeting for a later time replying to my email saying *“A later time is fine by me. Let me know when it would suit you.”*

55. I should add that although I cannot be certain and this will no doubt emerge from evidence at the hearing, that I got the impression that, aside from the correspondence, the AG was talking to Mr. Baglietto. I was dismayed that proper boundaries was not being maintained.

56. At around 1000hrs I received another email from the AG which included a request from Mr Baglietto to have the meeting expedited. The AG was asking me whether we could meet up at midday. I had given further thought to the matter and I replied an hour so later to the AG’s email copying in the DPP saying that in my view it would not be appropriate for the Commissioner of Police and AG to meet with the counsel representing the person under investigation to discuss matters in a live criminal investigation, particularly as JL had indicated that he was likely to ask Mr Baglietto to represent him in the formal police interview under caution scheduled for the following week. I offered to meet the AG to discuss the preparation of legal arguments for any potential legal challenge to the execution

of the search warrant. The AG responded saying he could formulate his own view on what was appropriate but accepting the suggestion that we should meet.

57. On this position the DPP subsequently agreed with my stance in the presence of the AG himself. We agreed to meet later that day at 1500hrs. I asked Supt Richardson to accompany me to the meeting because he had far greater knowledge of the intricacies of the case than I had. I had been informed by the investigating team that one of the central suspects, Mr John Perez, had been in direct written communications with the CM in relation to the attempt to appropriate Bland's contract to the benefit of 36 North. The meeting was attended by the AG, DPP, Senior Crown Counsel Lloyd Devincenzi, Supt Richardson and myself. It was held in the AG's office and we sat around his boardroom table.

58. At the meeting:

58.1. The AG wanted to take the response to the letter from Hassans step by step and the first thing he wanted to know was why the RGP applied for the warrant – he asked me why the RGP had gone for what he termed as the most oppressive means, getting the warrant without asking JL in for interview.

58.2. I responded to this question saying the data that the team was seeking was obtainable on a search warrant and the team did not expect JL to hand it over willingly. I added the fact that others subject of investigation had been treated in the same way and that the RGP were not looking at Hassans as in the Chambers but were looking at JL as an individual, that JL had to be interviewed under caution and this was a line of enquiry that needed to be done before proposing any charges. I explained it would make no sense to propose charges before addressing the JL angle as he could potentially have cleared up many of the matters under suspicion and therefore it would have a direct bearing on what charges could be proffered. I asserted to those at the meeting that this account was the truth and therefore I was unable to shift from this position.

58.3. The AG enquired saying "*Sorry, what's the truth?*"

58.4. I referred to the truth being that I would revert to AG with proposed charges once JL was dealt with.

- 58.5. The AG dismissed my comment as a separate issue between him and I and accepted we had different standpoints not wanting to talk about the matter at that moment.
- 58.6. I stated that it was important to consider this point because JL may well be able to eliminate a lot of the issues in terms of suspicions which as previously stated would have had a bearing on the list of charges that could be presented to the DPP/AG.
- 58.7. The AG said that given that I had raised the matter, he would restate his position from which he would not budge because he was 200% certain of what was previously discussed prior to the intervention, meaning that nothing else would happen with the investigation and that once I had rationalised the grounds, the RGP would reduce the large number of charges and bring these to the DPP/AG.
- 58.8. The AG and DPP discussed in very deep detail with those present the contents of the correspondence received from Hassans of the 12th May which suggested the RGP had behaved in a criminal manner towards JL and how the matter was going to be addressed.
- 58.9. I then stated that given the strong views expressed by CM and AG on how the case was being handled, I offered the complete investigation file to be submitted for a serious case review by an independent police force. I expressed a firm view that I felt I was being muscled out of progressing the investigation adding that I would maintain my high standard of ethics and integrity and would not allow anyone to lower them. That if I had to leave my post I would do so with my head held up high.
- 58.10. In response to the previous point the AG said nobody in the room had questioned my ethics.
- 58.11. The DPP also stated that the integrity of the RGP in this investigation was beyond question. He had agreed at a very early stage in the investigation that JL was a legitimate source of enquiry, i.e. a suspect.
- 58.12. Reference was made in this meeting to JL stating on body worn video that the RGP were being forced to conduct this investigation by the Governor. I dismissed this to be totally unfounded.
- 58.13. The AG stated that what he "*had heard*" was that James Gaggero had lumbered me with this investigation but he has never explained where he had heard this from.

- 58.14. Superintendent Richardson clarified the issue of James Gaggero engaging with the CM about the timing of RGP intervention of the 3 defendants.
- 58.15. I stated I needed to refer up to the Governor and the GPA the fact that a criminal complaint had been made against me by Hassans. The AG told me that for the moment I should not be doing anything.
- 58.16. The AG asked about, and rated it as unjustifiable, that the CM was mentioned in the pre interview disclosure document provided to JL. He wanted reference to the CM to disappear immediately, expressing concerns about the reputation of the jurisdiction which he explained passed to the reputation of the CM, particularly so during these times, adding that *“for that I shall fight until I die”*.
- 58.17. Superintendent Richardson and I told the AG that the interrogation of the defendants’ devices had revealed communication exchanges with the CM.
- 58.18. The AG asked the RGP officers at the meeting whether they realised how damaging this would be if it came out, repeating that the reference to the CM may be completely unjustified. He expressed concern about the perception this would create and how very damaging that would be, explaining that that had been the reason why he wanted to avert this from the beginning. That is why he had asked me to rationalise the ground and to then assume that ownership of the NSCIS platform rested with the Government in order to provide a secure progression of the investigation.
- 58.19. I explained to those present what remained to be done in terms of lines of enquiries for the investigation to be completed.
- 58.20. The AG again explained the many shortfalls he knew of in relation to the way HMGoG have managed their relationship with Bland Ltd regarding contracts, GDPR obligations etc and commented how bad this looked on HMGoG and Bland Ltd.
- 58.21. A discussion was held on how to manage the possession of the devices which JL handed to the RGP for examination.
- 58.22. Surprisingly, the AG then asked me what JL should say in order to achieve the best possible outcome for himself during the forthcoming interview.

- 58.23. Superintendent Richardson explained that an explanation by JL which accounts for what he has done and which holds validity, such as that he may have felt misled by the defendants – that he had invested £500,000 in the 36 North venture because he had been told they [the defendants] were bringing in Carnival Cruises and business from São Tomé, none of which have materialised – that he'd lost all his money and he felt deceived – that he didn't know that the NSCIS platform had been hacked and time bombed. That this sort of account is one which held validity.
- 58.24. The AG asked if JL provided an account that held a degree of water whether the RGP would return his devices straight away.
- 58.25. The AG also said he would deal with the allegations of malfeasance made by Hassans against Superintendent Richardson and myself.
- 58.26. The AG enquired into the detail of how the investigating team was going to deal with JL and asked what the worst case scenario would be. Superintendent Richardson and I explained that the investigating team had tried to avoid reaching a worst case scenario with the approach taken.
- 58.27. The DPP said that the RGP had to close off all lines of enquiry in the investigation as they would have to justify later at a trial but that he said that the timing of the intervention on JL had been awkward for him though he accepted this was an operational matter and he could not interfere with that.
- 58.28. The AG enquired about the route and stages the case would take for determination to be made as to whether it went to trial or not. This was explained by myself, that the investigation would be completed and the file passed to the DPP for perusal and a determination would be made on charges or otherwise.
- 58.29. The DPP said that the AG could not enter a *nolle prosequi*, the AG replied that he had been asked to enter *nolles* in sensitive cases but that the threshold for doing so was extremely high. The AG added that if any prosecution exposed the CM on "*flimsy grounds*", he would stop it.
- 58.30. After explaining all the intended process, the AG expressed that it was very clear to him what the next steps have to be *vis a vis* the interview of JL the following week,

though expressed doubts as to whether the interview would progress. (To my knowledge JL was never interviewed).

58.31. On conclusion of this meeting the AG asked me to remain behind and told me there was a serious problem, this being that the CM was adamant that I, the previous day, had said the team had gone with the warrant on the advice of the DPP. I explained that although I could not recall my exact words, they were to the effect that the DPP had been advising in general all along during the investigation and that he read the rationale and agreed with it in terms of the status of JL as a suspect. The AG stated that the CM remained of the firm view that I lied to him by saying that the DPP advised on the search warrant. The AG said he wanted to calm the situation down with the CM but this was a big sticking point with the CM which was going to be very difficult to defuse.

58.32. The AG mentioned that prior to the intervention on JL the CM was aware of everything that was happening. In response to this I stated that the CM may be aware of only one of the sides as very few people were in the know of what the RGP had secured as evidence. I stated that whoever was feeding the CM was clearly not being upfront with the truth to make him to believe there was no criminal conspiracy.

58.33. The AG said he would accept there had been a misunderstanding of what had been agreed between him and I regarding the next steps in the investigation and that he is a person who holds no grudges, that he was happy to have met and chatted about it but he asked me to understand how he felt when he received my text message alerting him to the fact that JL was being intervened.

58.34. I told the AG that I sensed him to be in an awkward/compromised position with this investigation. The AG acknowledged what I was trying to say but explained that I could rest assured that he would defend the CM "to the death". That if he were to find out that the CM was somehow adversely embroiled in this case he would "*break into tears*". That he was 100% certain the CM had no adverse involvement in the matter. That he had spent all his life defending Gibraltar's interests abroad but did not enjoy having to deal with these type of conflicts between fellow Gibraltarians but accepted it was now his role which he assumed wholeheartedly. But that in terms of protecting the jurisdiction there could be no office more symbolic of the jurisdiction than that of the CM and he repeated that he would defend it.

59. A further meeting was held on 15th May 2020 in the AG's office. Present at the meeting were, the AG, the DPP, senior crown counsel Lloyd Devincenzi, Supt Richardson, DI Mark Wyan and myself. At the meeting:

59.1. The AG said that it was looking like the we were heading towards a major collision with Hassans and whether the RGP agreed or not with what Hassans were arguing, it was clear that matters were going to become very nasty very quickly and therefore he wanted to avoid this.

59.2. The AG enquired of me whether the RGP's position had changed since we had last met. I stated that it had not and that the RGP still had to close off certain lines of enquiry including the interview of JL. The AG enquired whether JL could be interviewed not under caution. Supt Richardson explained that the RGP would be breaching the Criminal Procedure and Evidence Act and Codes of Practice by not interviewing under caution.

59.3. The AG was influencing the officers present to consider ways to treat JL in a way other than as a suspect. He stated he was learning criminal law procedures on the hoof with a very good teacher, referring to the DPP. I do not know why he said this but I was disconcerted by his admission that he did not appear to know the law whilst at the same time lecturing me on how to deal with the investigation.

59.4. Supt Richardson explained how counsel for the other defendants had frustrated the gathering of evidence by employing tactics during their interviews, limiting the responses and then reverting with written statements post to the interviews. A discussion unfolded to explore ways to mitigate the escalation that was mounting.

59.5. The AG stated what was causing major tension was referring to JL as a suspect and the AG was asking/influencing the officers present whether there was any other way to deal with JL without the "*oppressive*" stigma to prevent matters from getting worse. As I understood it the AG was effectively stating JL's position which can only have come from his discussions with JL's representatives.

59.6. The letter from Hassans dated 15th May made reference to two very significant points as follows:- (i) that the DPP advised against the application for a search warrant and (ii) that misrepresentations were made that the DPP had advised on the application of the warrant. The DPP expressed concern because these lines in the letter could

possibly suggest that he had spoken to Hassans about the matter which he says he had not. Supt Richardson also stated that he had not communicated anything of the sort to anyone. Those present asked where Hassans had got this information and the AG stated "*it must come from the conversation with Ian and the Chief Minister.*" I stated that I felt totally sold out and that this was beyond belief.

- 59.7. The DPP stated that just because the RGP had taken the operational decision to run the investigation in the way they had did not mean to say it was wrong – and he added that I was the policeman and that neither the AG or himself were and we each saw things differently which did not make things right or wrong one way or another.
- 59.8. A discussion was had on the fine detail of how JL would be interviewed.
- 59.9. The AG stated that the investigation should focus on those defendants against whom there was strong evidence - and he made a determination that JL had value as a witness and that if he was not properly handled it could spoil the evidence against the other defendants, adding it would prevent the disruption that would prevail with the arrival of QCs by the spade-full to defend JL. That pursuing the line of enquiry with JL would mean going to war and Hassans were going to bring 10 QCs from London and every single breath we took was going to be challenged whether justifiably or not.
- 59.10. Supt Richardson explained that changing JL's status to that of a witness after an application was made on oath in court describing him as a suspect did not leave the RGP in good light.
60. A further meeting was held at the AG's office on 20th May 2020, where I attended along with the AG, and DPP. The AG again attempted to steer the Investigation seemingly so as to limit the exposure of JL, for example stalling examination of electronic devices which JL had handed over. In summary:
61. The AG and the DPP had been discussing the best way, in their view, of how to respond to the latest letter from Hassans expressing that it would not be productive to engage in a rebuttal of the contents which we were not in agreement with. The AG was underscoring that challenging all these issues would undermine the efforts we were working towards of obtaining a statement from JL.

- 61.1. The DPP was of the view that the response required some firmness to demonstrate that Hassans were not the ones calling the shots on the matter.
- 61.2. I expressed my concerns that having spoken to the AG on the matter, Hassans were of the view that any account JL would submit would be in a witness capacity. This was referred to in the correspondence under reply and neither the investigating team nor I were in agreement with this attempt to change JL's status. The AG agreed this statement in the letter was incorrect.
- 61.3. I said that any statement JL provided was on an unsolicited basis which we would accept and consider and therefore our response to the letter had to reflect that he was still a suspect.
- 61.4. The AG mentioned that it had to be made clear to Hassans that no-one had suggested that JL was to be treated as a witness, and that all he had told Lewis Baglietto QC from Hassans was that the RGP were willing to accept a statement from JL which would then be considered.
- 61.5. The AG said that he envisaged that once JL submitted his account, the RGP would most likely ask a further round of questions which JL would have to respond to and that thereafter the line should be drawn.
- 61.6. Supt Richardson challenged this comment from the AG explaining that posing further questions to JL after he had submitted his account could be construed as a interview and the RGP would therefore be breaching the CPEA - that any further questions put to JL after he submitted his account would have to be under caution.
- 61.7. The life of the search warrant was discussed given that JL was being given an amount of time to submit his statement and this could surpass the expiry date of the warrant and the RGP would not be able to execute it.
- 61.8. The voluntary handing over by JL of the evidence requested was also discussed. with the RGP expressing the view that the consent for this handing over had seemingly been withdrawn but the DPP saying that the said withdrawal had not been stated in writing. The DPP advised that if JL did not provide his account within the time frame allowed that the RGP could proceed with examining the devices in their possession. To this the AG stated that the question of the mobile devices was a very sore point

with Hassans and that we should wait for the submission of JL's account to see what it said before actioning any interrogation of the devices.

- 61.9. We also discussed part of the letter which again referred to the claim that the DPP had advised on the warrant, something which had been previously dispelled. On this the DPP stated that the question of the search warrant was not a matter for him but was rather an operational matter for the RGP.
- 61.10. The AG mentioned that he would be speaking to Hassans and tell them to desist from writing such challenging letters during this period when a procedure had been set up to facilitate JL submitting his statement.
- 61.11. Whilst I would not go as far as saying that I gained the impression that the AG was acting as advocate for Hassans, it seemed that he considered his position to be that of a broker or intermediary as between law enforcement and a suspect.
- 61.12. A discussion was had on whether JL's statement could be used against him, if he indeed submitted one.
- 61.13. The DPP and the AG stated that we could not offer any guarantees to Hassans that JL would not be interviewed under caution after he had submitted his statement.
- 61.14. The AG said that the whole point of JL's statement was for the RGP to assess at that moment whether there would be a need to subsequently interview him under caution or not.
- 61.15. It was agreed that the DPP and Supt Richardson would craft out a draft response with the points discussed and this would be then circulated with the other participants in the meeting.
62. What I have just explained happened on the 20th May 2020. I have subsequently learnt that the AG, the CM and NP had discussed my removal between the 15th and 18th May 2020. If this is correct, it is deeply concerning, and one obvious and apparently logical conclusion to be drawn would be that the AG's suggestions as to the procedure to be adopted was insincere because his intention and that of the CM and NP was to terminate my position with the consequent warning off of all of the members of the investigation team. No doubt the Inquiry will also hear from police officers in the know of the background to my removal of the huge blow to morale that this has been.

(iv) *The collision at sea*

63. Below is a short summary of the events relating to the collision at sea. I intend to provide a more detailed account in due course, but provide this short summary at this stage in order to assist the Inquiry in its work.
64. On 8th March 2020 an incident occurred involving a collision at sea between an RGP patrol craft and an alleged smuggling vessel. Two people on the alleged smuggling vessel, reportedly both Spanish nationals, died in the incident and two were injured. The incident occurred outside of British Gibraltar Territorial Waters (“BGTW”).
65. On 8th March 2020 in the early morning I sent a WhatsApp message to the CM, the GPA Chair Dr Joey Britto and NP informing them about the incident. I exchanged a number of messages with them responding to questions during the morning, including informing the CM at 09:49hrs that the “*information suggests that the collision took place outside BGTW - approx 6NM east off the runway/Santa Barbara beach*”. I messaged the CM that it was best practice to engage an independent investigating team and I was studying how to achieve this. He responded that it was necessary to liaise with the AG about this and to ensure transparency and said any necessary additional expenditure would be approved.
66. I subsequently commissioned an independent investigation of the incident by the Metropolitan Police Service through the UK National Police Coordination Centre.
67. On 14th May 2020 a letter was received by the RGP from the families of the deceased pursuing damages.
68. Communications followed between the AG and myself about the approach to take regarding the incident, focussing on the facilitating the Metropolitan Police Service investigation and the potential diplomatic fall out with the Spanish Government.

69. On 21st May 2020, the CM, under the powers provided for by s.15(1)(A) of the 2006 Act requested I provide a factual report relating to the incident. The letter making the request raised concerns that I had not expeditiously provided the CM with “*all the information and documentation*” which he should have been provided “*in the context of the seriousness of the events in question*” and stated that he had “*no confidence*” that “*either the Government or the office of the Governor (with whom I have discussed this matter at length) have had the timely candour and transparency we would have expected from you in the circumstances arising in respect of the Incident*”.

70. The CM’s comments were completely at variance with the WhatsApp discussions which we had had in a special group that he had himself initiated the day after the accident.

71. The report was requested within seven days of the date of the letter (i.e. by 28th May). I duly submitted a 30-page report on 27th May 2020. I have to this date received no acknowledgement of receipt, or any comments or feedback on the report.

(v) ***The RGP Inspection Report***

72. Below is a short summary of the events relating to the RGP inspection report. I intend to provide a more detailed account in due course.

73. On 9th April 2020 Her Majesty’s Inspectorate of Constabulary and Fire & Rescue Services (“**HMICFRS**”) published an inspection report on the RGP, based on an inspection which took place in October 2019. The HMICFRS Report in part followed up on a previous report dated February 2016. The 2020 report found that the RGP, “*isn’t as effective or efficient as it could be*”, stated that there was “*poor and outdated practice [which] often curtails officers’ effectiveness*” and highlighted a number of areas where the recommendations of the 2016 report had not been implemented and generally for improvement.

74. Although in places the report is critical, there no express criticism of myself. I had been in post for 18 months at the time of the inspection.

75. The report was sent in draft to me on 25th February 2020 for factual checking and the GPA Chair was consulted during this process.

76. On 10th May 2020, I gave a public briefing on the Covid emergency with the MoJ on TV. I was asked a question about the report. The GPA Chair messaged me afterwards (16:43) “*Very good answer from you and brilliantly followed up by MoJ. [Thumb up emoji]*”. I received a number of private messages of support including from the ex MoJ and the ex Governor.

77. There was no criticism made of me relating to the report, either privately or publicly, until the letter of 22nd May 2020 which is described below.

(vi) Events leading up to my resignation

78. Having received the very strongly worded letter from the CM on the evening of the 21st May regarding the collision at sea and with all that had happened around Op Delhi, my worries were gravely compounded. It became evident to me that my position as head of the RGP was at serious risk. Consequently, I messaged the GPA Chair that same day asking whether I could meet him the following day (22nd inst). It was my intention to share with him my serious concerns. He replied, “*I planned to – what time?*”. The fact that the GPA Chair had plans to meet me too cemented my concerns. I messaged him saying “*I have a meeting with AG and DPP at 10. Could we do 8.30 or 9am?*” This meeting was also to do with Op Delhi (see below) He replied, “*9.00 is fine*” and I said “*Ok thanks.*”

79. At 0900, on 22nd May 2020, the Chairman of the GPA arrived at my office. He was very serious and pale. I sensed something was not right so I asked him to sit down on one of the armchairs in my office.

80. The conversation started with the GPA Chair explaining that he should have really called me into the GPA office and tell me what he was about to tell me in the presence of the whole of the GPA. That he had preferred to meet me alone as he had never done anything of what he was about to do before in his life. The GPA Chair told me that he had been called to a meeting with the Governor and CM but that the meeting had been initiated by the CM in the Convent (which is the official residence and office of the Governor). On

being asked by me to state this again he rectified saying the Governor had contacted him telling him the CM would also be there. In summary, the following was discussed at the meeting:

- 80.1. The GPA chair told me that between both of them they had told him that they had completely lost confidence in my ability to lead and manage the RGP.
- 80.2. The GPA Chair told me that he asked NP and the CM what they were basing this on. He explained to me that their reply was to do with the collision at sea and the HMICFRS report.
- 80.3. The GPA Chair told me that at the meeting with NP and the CM the provisions of the Police Act that deal with the removal of the Commissioner, i.e. section 34 where the CoP can be invited to retire and section 13 where the Governor can suspend or call for the Commissioner's resignation had been explained to him. He informed me that NP/CM had said Gibraltar had been put in a very poor position because of the incident at sea and he was told not to delve too much on this because they were going to write to me separately on this matter. They said the incident at sea was very grave and that it put Gibraltar in a very bad position with Spain and Britain. He said that he would not go into further detail because technically it was not something the GPA could do anything about. They said that the HMICFRS report led them to believe that the RGP had regressed rather than progressed. He told them that there were matters he could not answer because he felt it was for me to do so. He did not want to mention previous commissioners either.
- 80.4. The GPA Chair told me that he had been asked by NP/CM whether he knew the reasons why there were recommendations still pending from the previous inspection and that he mentioned that there were probably explanations.
- 80.5. He told me that NP/CM went through the report with him, bringing up the issue of the RGP not being alive to corruption and how this damaged the reputation of Gibraltar resting on the police. They also said the independence of the police could be tainted by not being alive to corruption, something which he told me he

had never personally seen that way. He said NP/CM had said the report brought the RGP into disrepute.

- 80.6. He also told me that NP/CM recognized that I may have explanations to offer which is why they asked him invoke section 34 of the Police Act 2006. He told me that unfortunately he had been asked to hand a letter to me and did not want to do this in front of the whole of the GPA.
- 80.7. The GPA Chair told me that the GPA felt they had no option and that all the GPA members were in agreement. That the preference was retirement as this was not the same as resignation, describing the latter as the “nuclear” option.
- 80.8. I told the GPA Chair that my initial reaction to this news was that this was a complete travesty because there were underlying issues.
- 80.9. He told me that the GPA were bound to do something about NP/CM losing confidence in me because they had been told to.
- 80.10. The GPA Chair gave me seven days to respond if I wanted to, even though he said the Police Act 2006 did not make reference to any specific period to respond with any representations.
- 80.11. He told me that he had told NP/CM that I had already started working on the recommendations contained in the report and he said to me *“I think what has triggered this, apart from anything else, from what they said, is actually the incident at sea, according to HE.”*
- 80.12. I asked the GPA Chair when was the said meeting between NP/CM and himself held.
- 80.13. He told me that it had been held on Monday 18th May 2020 – he said that he had been called on the Sunday 17th May to attend this meeting. He then rectified to state that he had been called to the meeting on same Monday 18th May 2020.
- 80.14. I asked him what the position of the GPA was and whether the GPA had any concerns about me. To this he responded *“No, no wait, we would have told you”* and he advised me that I could use this as part of my submissions in response to the invitation to retire.

- 80.15. He told me that NP/CM were claiming not to have been fed information relating to the incident at sea.
- 80.16. I explained to him what in my view was the reason that had triggered the issue, this being that the RGP had received a letter of an intended claim by counsel representing the families of the deceased/injured and I had instructed Supt Cathal Yeats to engage with the OCPL to seek crown counsel representation for the RGP as has been the case in other civil claims. The DPP had felt his chambers could be conflicted and could therefore not represent the RGP. The DPP wrote to the AG explaining the situation and in turn the AG had communicated this to the CM who reacted in a manner which stunned me, suggesting that I had not been keeping the CM apprised of developments – a matter which is not correct as I explained to him that the RGP acted on the said letter of claim as soon as they received it.
- 80.17. The GPA Chair misconstrued the request for crown counsel representation of the RGP with a request for funding of independent counsel which is not what I was at that stage considering.
- 80.18. The GPA Chair acknowledged to me that the process of the Section 34 letter had been done the wrong way round.
- 80.19. I asked whether I had to hand in everything and leave my post, to which he said that I was not suspended but would lose my job if NP invoked his powers.
- 80.20. I again stated that what was happening to me was a serious travesty.
- 80.21. He told me that *“anyone of them [NP/CM], in the Act it says one of them can trigger, both of them can trigger this but any one of them can take the final decision.”*
- 80.22. He told me that the GPA had to act on this as otherwise it would be in default.
- 80.23. I told him that I had been threatened by the CM and that he said not to say this to him, to mention it to the GPA.
- 80.24. I told him I had never received any indication from NP expressing any concerns about me as Commissioner. That I had been subject to an adverse reaction from

the CM arising from the intervention on JL which I had briefed him on but that nothing negative had been received by me from NP, quite the contrary. I told him I believed the catalyst behind the whole matter was the Operation Delhi intervention.

- 80.25. The GPA Chair told me that NP/CM had brought to his notice that in my application pack for the post, I had stated that I would immediately set up a working party to address the pending recommendations of the previous HMICFRS report and that this was a question the GPA had been asked to ask me.
- 80.26. He told me that NP/CM were clearly worried about international reputation.
- 80.27. I asked the GPA Chair whether he would engage with HMI Matt Parr to find out if the HMICFRS report warranted my departure from the post. In response to this he said that I could ask this myself as the report talked about the RGP. He advised me to take my time and read the letter that he had handed over to me adding that in 40 years of working in Government that he had never had to do anything like this before.
- 80.28. I told the GPA Chair that I was shocked.
- 80.29. He confirmed to me that he knew I was shocked because of my reaction. He explained that a firm and final view had yet not been determined.
- 80.30. He said that if I opted not to accept the invitation then the Governor in all likelihood would invoke section 13 of the Act by suspending me or calling for my resignation.
- 80.31. I asked what would happen after I made my representations. He replied that the GPA would consider them and then go back to NP and CM as they would have the final say.
- 80.32. I told him that this could cause a constitutional crisis but that he said he was doing what he had been obliged to do which was serve me with the letter inviting me to retire.
- 80.33. I said all this was an injustice and I told him that the only thing I had at peace was my conscience and that my ethics remained high. I further told him that I was

being muscled out because of other underlying issues and that I was toying with whether to defend myself, or bring everything out in the open and cause reputational issues for Gibraltar during these crucial times.

- 80.34. The GPA Chair advised me that I could completely be open with the GPA.
- 80.35. I asked him whether he had the concerns of NP/CM in writing and he replied that he did not.
- 80.36. I read the letter he handed me and saw that it was extremely scant in detail and did not show the reasons for concern expressed by NP/CM. The letter merely stated “*certain aspects of policing that had led to a serious and regrettable loss of confidence in [me] as Commissioner.*”
- 80.37. I insisted that he provide me with the particulars of the policing aspects referred to. He tried to persuade me to accept his notes of the meeting (which incidentally he did not have on him) as valid enough information of the concerns. I told him that I deserved those aspects of concern to be formally put in writing in order to consider responding to them.
- 80.38. He reiterated the reasons why the loss of confidence had happened being “*the way its been handled apparently. The maritime incident.*” I told him that “*apparently*” was not good enough for me, that I needed all the details.
- 80.39. I told him how could NP/CM say they had lost confidence in the way I had handled the collision at sea when I had yet not answered with the report requested by the CM the day before, the 21st May 2020 on this matter.
- 80.40. The GPA Chair confirmed to me that the final say as to whether I remained in post or not rested with NP/CM and not with the GPA. I then questioned him on the matter of the constitutional independence of the GPA but he said it was the Governor who had appointed me and therefore NP could also “*dis-appoint*” me.
- 80.41. He mentioned to me that he and all the other members of the GPA were equally surprised by the approach taken by NP/CM and that the GPA had been put in this position.

- 80.42. I asked him how it would leave me if I were to make representations and these were not accepted – whether the invitation to retire still stood. He told me that it would most likely not stand meaning the avenue left for me was to resign.
- 80.43. The GPA Chair told me I should seek advice on the matter.
- 80.44. I again asked him who had initiated the whole process. I also asked him whether he had actually asked who of both NP and CM had initiated the concerns. I further asked him whether there was any reason why he did not ask this question and to which he said he had assumed it was NP because it was he that called him to the meeting.
- 80.45. The Chairman of the GPA reiterated that he had been asked to invoke section 34 because the default position was section 13 which would be triggered.
- 80.46. I mentioned to him the trigger for the matter stemmed from the fact that the CM and AG had not been in agreement with the way the case involving JL had been handled. That I had been called up and threatened by CM who also said he would call up the RGP's Senior Management Team, adding this was total interference with a live police operation.
- 80.47. He told me that he had even told NP/CM that he and I had met with the MoJ to discuss the contents of the report. He also said that NP/CM told him that the MoJ did not feature in any of the Police Act 2006. To this I said that as minister with responsibility for the police she did have a crucial role to play in terms of recruitment and resources.
- 80.48. I kept on stating to the GPA Chair that this was all a travesty.
- 80.49. I again queried what my situation would be if my representations were not accepted – would I be “*fired as opposed to retiring?*” At that point he said he was unclear as to the process and that he would have to ask about it. I asked him how he was going to find out this and he simply said he would have to ask “*someone.*”
- 80.50. I yet again asked him about the GPA's position should the GPA agree that my representations convinced them that I should remain in post, but that NP/CM did not agree with the GPA. I asked him whether the GPA could go against the views of NP/CM to which he replied that they may be put in such position that they have

to stand down if there is a direct conflict. I asked him whether the GPA would do this to which he replied that he could not speak for the others and had not made his own mind up.

- 80.51. He told me that NP/CM were the two principal parties that had to have confidence in the police.
- 80.52. I told him that I had been totally open and transparent with the maritime incident, bringing over an independent investigating team, accident investigators, speaking to the Spanish authorities, speaking with the AG on numerous occasions asking him to agree to a Gibraltar strategy, but that the AG had stated that he would consider strategy once the investigation report by the Metropolitan Police was received. I told him that I had done everything the way it should be done.
- 80.53. I again asked him if the GPA had concerns about me, he would have told me and he agreed.
- 80.54. I asked him why NP/CM had taken these drastic measures to which he replied saying that possibly Gibraltar did not operate in a bubble and whatever occurred here affected Spain and Britain and possibly our reputation.
- 80.55. I again stated that I had been airing my concerns to the AG and that I had been told by CM that he was not too concerned that the incident had occurred outside BGTW. That the AG and CM would portray the incident in the context of cross border law enforcement which is one of the strands arising from the Brexit discussions.
- 80.56. I told him that I felt pushed into a corner having to decide whether to save my own skin because I am a man of integrity and I was getting trampled all over. I felt I did not deserve this simply for the RGP doing its job in executing a warrant at the chambers and home of an individual suspected of having been involved in criminality. I asked him why this matter had not been spoken about at the meeting with NP/CM given the CM's dissatisfaction, to which he replied that the subject of Operation Delhi had been spoken about. He alluded to NP seemingly being in the know because they spoke at the meeting about how I had handled the case, also mentioning that the AG had also lost faith in me. He said that as they were not talking to him about this, he had not taken down any notes. I told him of the

significant importance of what he had just said because that was reference to Operation Delhi which was being discussed. I insisted that he tell me everything that was said by NP/CM about the alleged mishandling of the investigation in question and he said he would provide the details in writing but that NP/CM had not provided him with written explanations of their concerns.

- 80.57. On my further insistence he told me that the CM was very critical of how I had handled the case because I had basically lied to the CM or omitted the truth. I asked him what it was alleged that I had lied about, whether it was to do with the collision or the criminal investigation in question, he replied “*in everything, in everything.*”
81. The meeting ended and the GPA Chair left my office. I was left stunned and shocked. I could not believe the way I was being treated. I sincerely had no notion that I had lost the confidence of NP. I could more or less understand (but not accept) the CM’s stance given his reaction on the 12th May 2020 to the progress of Operation Delhi, even though I refute his understanding of what was said in the Cabinet Room. That the CM claimed I had not kept him updated on the collision at sea incident really baffled me.
82. I took a few moments to myself and tried to contain my emotions before I called in the RGP’s Command Team to my office so I could brief them. The team at the time comprised of (i) Assistant Commissioner Richard Ullger, (ii) Superintendent Cathal Yeats, (iii) Superintendent Wayne Tunbridge and (iv) Superintendent Paul Richardson. Their immediate reaction was one of disbelief – they were astounded.
83. My immediate consideration was to seek legal advice and Supt Richardson offered to contact Sir Peter Caruana QC who he had had previous contact with regarding Op Delhi in which he had acted for Bland Limited, the alleged victim of the alleged fraud. He called Sir Peter Caruana in my presence and in the presence of the others there and though I heard Supt Richardson’s part of the conversation I could not hear what Sir Peter was saying. Supt Richardson was making notes as he spoke. Supt Richardson asked Sir Peter whether he was available to meet me as I was in urgent need of legal advice. From the questions being asked by Supt Richardson, I was deducing that Sir Peter was not going to be able to see me. I recall Supt Richardson asking Sir Peter who could he recommend that I engage. Once Supt Richardson ended the call with Sir Peter, he informed me and the others present that Sir Peter was conflicted and could not see me. That he had

imparted to Supt Richardson that “*the other side*” (which I took to be HMGoG) were getting increasingly nervous with how the investigation parameters were extending; he was referring to Op Delhi. I engaged with Charles Gomez & Co immediately.

84. I also tried calling the AG to inform him that I would not be attending the meeting I had asked for at 1000hrs. I was in no state emotionally to attend. He did not answer my call. During the time I was assimilating the news with my Command Team colleagues, I had to ask them to refrain from what they were intending to do which was to go to see the Governor *en masse* to express their views on how unfairly I was being treated. My colleagues were angry but reluctantly respected my request. It was a matter for me to deal with and I did not want to expose them in any way to the vitriol I was experiencing.
85. Later that morning I received a call from the AG who in a very sombre tone enquired whether I was going to attend the meeting. I said I was not and he mentioned he was aware I had been served with a letter to retire, adding that it was to do with the HMICFRS report and the collision at sea. To this I retorted politely saying that he knew full well what this was about – that it was all to do with Op Delhi intervention and the posture adopted by the CM, he did not deny this. I told him that they could eliminate me from the picture but that my colleagues also felt very strongly about the due process that those persons of interest in the case had to go through. He offered to be available for me if I wanted to chat, an offer which I politely did not take up. I was extremely hurt and was certainly losing trust in these officials. I similarly received a message from the DPP who at 1148hrs said “*Hi Ian, have heard what’s happened. Happy to speak if I can assist at all. Best, C.*” At 1244hrs I replied to the DPP saying “*Thanks Chris, I am going to take the weekend to reflect on what is happening to me. I will revert next week.*” In turn the DPP responded with “*Just wanted you to know that I am always able to speak. Take care, C.*” I appreciated these messages from the DPP who I have not had any issues with at all since he took up the post.
86. I received two letters (in total) from the GPA Chair on the 22nd May 2020. The first was a formal notification of the exercise of the s.34(1) power in a four-paragraph letter which referred to “*our meeting earlier this morning*”. It provided no further detail save for referring to “*grave concerns expressed by both the Governor and the Chief Minister, in respect of certain aspects of policing that have led to a serious and regrettable loss of confidence in you*”. The letter invited representations pursuant to s.34(2) which “*shall,*

of course, be fully taken into consideration to allow the Governor, the Chief Minister and the Authority to express a firm and final view”.

87. A second letter arrived very late that evening. It provided more detail of the supposed reasons for the Governor, CM and AG’s sudden and complete loss of confidence in me. It referred to the HMICFRS report which was *“damning in respect of the efficiency of the RGP”*, the incident at sea being *“further evidence of the RGP acting inefficiently by seeking to act beyond its remit and jurisdiction”* and that the CM *“has no confidence in his having been provided with the information expeditiously about this very serious incident... [he has] expressed the view that he feels he has been misled by you”*. The letter also referred to the *“Governor and the Chief Minister felt that their dealings with you have left them with the sense that you are lacking in both probity and integrity – the maritime incident is one case in point”* and that *“additionally”* the *“Attorney General has also expressed the same feelings”*. There was no further information about the details of other *“case[s] in point”*, or on what basis the AG had *“expressed the same feelings”*. The letter also expressed concerns that *“the parts of the [HMICFRS] report that deal with the potential for corruption and, consequently, influence, which, given what is identified in the Report, seems not to be completely understood in the RGP”*. The Governor and the Chief Minister *“expressed the view that it is not possible for the RGP to claim that it is acts independently in any investigation or matter unless it has properly addressed this recommendation that has remained outstanding for the period of your service.”*
88. I was given seven working days to respond to the initial letter (i.e. by Friday 29th May) and was invited to seek more time if required.
89. I now had two very big and extraordinarily important matters to address within a week which incidentally included a long weekend due to a public holiday – (i) the factual report on the collision at sea requested by the CM. This required trawling through substantial data that was being asked for; (ii) the preparation of representations in answer to the GPA’s letters under section 34 of the Police Act 2006, inviting me to retire. I was of the view that seeking more time would not serve me well and I did not want the officials concerned to think that I was delaying any possible response to the respective issues in question. Notwithstanding this, I did feel enormous pressure coupled with a high degree of uncertainty regarding my future as head of the RGP.

90. As previously mentioned in this statement, I submitted the factual report to the CM together with accompanying data on the 28th May 2020 within the allocated time I was given.
91. On the 29th May 2020 my solicitors made written representations to the GPA on my behalf articulating how the process initiated was misconceived.
92. By this stage I was noticing that my anxiety was affecting my health. I was hardly consuming any food or water. I was not sleeping and my emotions were all over the place; there would be moments I would feel very bitter and others where I would just lock myself up in my bedroom and cry my eyes out of sheer sadness. I have been through many very stressful and mentally disturbing times during my 36-year police career but never had I felt so vulnerable and affected as I was with what was happening to me. It was my colleague Supt Wayne Tunbridge, who was seeing the condition I was getting myself in to, arranged that I obtained medical help. I attended Ocean Views medical facility and was seen by staff there. Because of the post I held, the member of staff (Ward Sister & mental health liaison practitioner, Sarah Wilkins) attending to me was kind enough to be very discreet about my situation. I undertook various tests and was diagnosed as suffering from clinical depression. This assessment did not catch me by surprise as I knew my mind and body were not right. I was prescribed medication to counteract my condition and help me recover.

(vii) Withdrawal of GPA invitation to retire

93. On Friday 5th June 2020, Triay Stagenetto Neish (TSN), the lawyers instructed by the GPA wrote to my solicitors acknowledging procedural errors had been made in the process and that the GPA were withdrawing the invitation for me to retire. This letter from TSN also made reference to the “*complaints*” made against me by NP and CM remaining “*live*” and that the GPA would be considering how they would proceed in respect of them. Furthermore, TSN’s letter made reference to an allegation by the CM and AG that I had lied to them. Clearly, this latter point related to Op Delhi and particularly to the encounter of the 12th May 2020. However, as articulated in my lawyer’s

letter of 29th May 2020 to the GPA, this crucial item was not referred to in the GPA's letters to me dated the 22nd May 2020.

94. Whilst I was somewhat relieved that that the GPA had seen it proper to withdraw their invitation for me to retire, it was evident that the threat of NP invoking his powers under section 13 of the Police Act to suspend me or call for my resignation still prevailed. I was extremely worried of the damage to my reputation if NP went down this route. I still did not have the full particulars of why NP was claiming to have lost confidence in me despite me having requested this from the GPA Chair. The same applied to the particulars of the concerns the CM had about me – I still had not received anything in writing. I could see that the way I was being treated was very brash and it concerned me a great deal that NP would proceed with his intentions irrespective of my entitlement to know what I was facing.
95. In response to the GPA's lawyers' letter of Friday 5th June, my solicitors wrote back via email to TSN asking what processes the GPA were now considering after their withdrawal of the section 34 process. There was no response to this communication.

(viii) The decision to take early retirement

96. That same day, I was asked by NP to go and see him at The Convent. I took with me the email my lawyer had sent to James Neish QC from TSN which I refer to above. NP asked me to sit down on one of the armchairs around the coffee table. He had quite a few papers before him. He then explained that he was now in receipt of a letter from the GPA Chair which as far I could see (from looking at it upside down) was not on the usual GPA letterheaded paper. He said he was also in receipt of a communication from the AG and CM, both of whom supported the allegations that I had lied to them. I told NP that the specifics of these allegations were not known by me and that they had not been formally put to me. Furthermore, that they had not formed part of the section 34 process. NP seemed quite surprised about this. He said that he would be taking all the correspondence away for the weekend to study. He asked me to return to see him on the following Monday (the 8th inst.) with a view of invoking his powers under section 13. I told him that this hardly surprised me – that I was anticipating this would be the outcome, obviously because it was something that the GPA Chair had mentioned to me at our

meeting on Friday 22nd May 2020. However, I also added that I was being put through the most grossly unfair and unjust process. I told him that I was not aware whether he was somehow being influenced or inadvertently used to go down this path without knowing the full facts, adding that even I was not privy to the allegations levelled at me.

97. NP said that the meeting was not the forum for me to make submissions. He told me that he would be consulting with London legal advisors at which point I told him that I sincerely hoped he had a neutral enough conscience to read between all the lines. NP asked whether what I was saying was that my lawyer's letter to the GPA did not deal with the allegations I was facing, to which I replied that it dealt with the two reasons mentioned in the GPA Chair's letter to me on 22nd May and only skimmed the surface on the matter of the interference with the live criminal investigation which is the matter that the CM and AG were alleging that I lied to them.
98. I told NP that about an hour before meeting him my lawyers had received a letter from TSN, lawyers for the GPA, where they were withdrawing their invitation for me to retire - this on the back of the strong representations filed with the GPA by my lawyers. I went on saying that we expected that the alternative process was for him to invoke his powers under section 13 despite our views that this was totally wrong and even possibly unlawful. I provided NP with a copy of the email my lawyers had written to TSN which I asked him to consider as it enquired about what process I was now going to be facing following the withdrawal of the section 34 process. In closing NP told me that what he was dealing with would be difficult for anyone to do. He also acknowledged that it was the hardest thing he had had to do whilst serving in Gibraltar. I urged him to consider deferring any decision until the arrival of the new Governor Sir David Steel who was due to arrive the following week and who would deal with the matter in the most impartial of ways. He did not offer any comment to me on this.
99. At 1424hrs on Saturday 6th June 2020 I received an email from NP which attached a letter. The last paragraph of this letter states "*Before I review all the papers I have on the matter in advance of our meeting on Monday, can you please confirm to me, by no later than midday tomorrow [Sunday], whether that is indeed your decision, and if so, whether you will be tendering your letter of resignation on Monday with immediate effect.*" He was referring to my lawyers email stating that ".....*given how unfairly he has been treated and the improper pressure put upon him to alter the course of a live criminal*

investigation, our client feels he must apply for early retirement from the Royal Gibraltar Police.”

100. There was a big issue that I picked up from NP’s letter, this being that he was asking me to **resign**, not retire, with immediate effect. This caused me indescribable stress - was he already exercising, albeit in an *ultra vires* manner, his powers under section 13? I simply did not know. The pressure to make a decision on whether to remain in service after the withdrawal by the GPA or the very likely chance of getting suspended or asked to resign by NP was enormous to bear. I was practically being given hours to decide what fate I was going to face i.e. either I remained in post and was potentially suspended or called to resign (which according to the letter was what was on offer), and lose all my pension rights and years of service, or apply for early retirement which may safeguard some of my interests.
101. After 36 years of loyal service, having reached the pinnacle of my career, and having discharged my duties with pride and integrity, I felt impotent and vulnerable in the face of the officials I was dealing with. I felt totally hounded. Part of me was saying I should remain in the post and face any further process they could throw at me. In this regard I had a clear conscience in that I had not committed any act that warranted my dismissal, quite the contrary I was standing up to what I saw as a challenge to the operational independence of the police service. The other part of me was saying that my time was up as it was going to be impossible to work with these officials ever again – in my view, my position was untenable but not for the reasons they claimed. I suppose by that point the loss of confidence was a mutual issue between them and I. Notwithstanding, the pressure I was being subjected to was relentless.
102. At 1156hrs, on Sunday 7th June 2020, my solicitor wrote to NP in response to his letter to me of the 6th June 2020. Apart from expressing views on a host of issues including NP’s lack of impartiality in the whole process, my lawyers strenuously stated that I would not be resigning but would consider early retirement conditional on certain personal arrangements. The letter concluded:

“Because of the immense pressure which has been placed on our client and his family, and the grave realisation that he can no longer count on the impartiality of the most senior members of Gibraltar’s Government, he has been left with no choice but to apply for early retirement – he will certainly not be resigning. The

process of such a request for retirement will inevitably involve a number of essential pre-requisites such as the financial terms of the early retirement and the withdrawal of the vague allegations of impropriety against him. To be clear, his request for early retirement is subject to satisfactory terms being agreed in advance. However, should appropriate terms be agreed, from his perspective we anticipate that this process could be swift.”

103. NP acknowledged receipt of the email but made no comment on its contents. At 2029hrs, on Sunday 7th June 2020, NP emailed me with the following “*Dear Commissioner, this is a reminder of my request that we meet at my office at the Convent tomorrow at 10.00 hrs. Regards Nick.*” I had certainly not forgotten about my requirement to attend but for NP to remind me late on Sunday evening only meant one thing for me at the time – that I was going to be suspended or called to resign.
104. Later in the evening, I emailed the NP asking for my lawyer to attend the meeting. NP refused stating that the purpose of the meeting was to hand me copies of three letters, from the GPA Chair, AG and CM respectively, and that he “*would like both meetings to be just us please*”.
105. At 1000hrs, 8th June 2020, I attended NP’s office at The Convent. The meeting was held standing in the Governor’s office. He started off the conversation referring to the letter my lawyer had sent to the GPA which he said he had taken serious offence to because of the certain allegations made against him. He said that his involvement in my matter was not necessarily linked to the concerns the CM, AG and GPA had about me but that they did overlap. He stated that he had concerns about the incident at sea and the HMICFRS report and that these overlapped with concerns of the CM, AG and GPA. He provided me with an envelope containing the three letters in question (NP’s dated 3rd June and the CM’s and AG’s both dated 5th June 2020). NP was taken aback that I had not had notice of the particulars of the allegations against me which is why he thought it fair that I was provided with a copy of the letters. He asked me to read the said letters and then return to see him at 1600hrs that same day – i.e. within a period of hours – with my views about the contents. I specifically asked whether he wanted a response from me to these letters to which he said that he did not, that all he wanted was for me to read the letters and understand where he was coming from. He explained that he had taken advice from the AG on this matter who he said was his lawyer in Gibraltar but that given the severity of

the matter, he had also referred the matter to FCO legal and a minister in London (though he did not mention the name).

106. I told him that I assumed the letters contained the allegations which had triggered the section 34 process, adding that I had requested these from the GPA back on the 22nd May 2020. I further asked why I had not been provided these letters earlier on so that I could have responded to them adding that to me it all seemed to be a retrospective construction of the allegations, more so when they had prepared their respective letters post to having digested my representations to the GPA. He also explained that my lawyers had asked him for the contact details of the FCO officials/lawyers that were dealing with my matter but he said he was not going to provide said details. NP went on to say that because of my lawyer's communications, my opportunities had narrowed - I queried why this was the case. I was referring to my already indicated intention that I would be seeking early retirement. He acknowledged this, however, he said that he still did not have my request to retire in writing. I told him I was unable to submit my request until I had agreed my terms of retirement which included sorting out untaken leave, pension issues, legal costs etc. NP said that all that could be arranged at a later date, something which I did not agree with.
107. I explained that this was one of the reasons why I wanted my lawyer present when I met him but he was very adamant that he did not want to meet with my lawyer. He was, however, amenable to discussing in the afternoon whether he could assert some influence over my terms. I asked him flat whether he wanted me "out" to which he said that he did. I then said that before I left I needed to know the financial terms of my departure and I needed to know these before I committed to signing my application for early retirement. Shortly after receiving the letters I left NP's office.
108. By then it dawned on me that my best option was to find the best way out before I was made to suffer even more. My mental health was very badly affected. I had completed 36 years of service and did not want to put in jeopardy my pension entitlements. At 1600hrs on the same day I went back to see NP as requested and told him that given the short period of time I had been given to digest the three letters, I would reserve my comments on them. I told him that should he agree to it, I would be submitting an application for early retirement subject to certain personal terms. We then discussed the terms of my retirement and he took note of these. Basically, aside from wanting to be

reimbursed for the legal fees I had had to pay out to defend the ill-fated s.34 process, I wanted my retirement terms to be as close to the situation I would have been in had I not been forced to retire. A series of emails and text messages followed in which terms were negotiated.

109. At 0830 on 9th June 2020, I emailed NP an application for early retirement. At 1207hrs, NP replied by email accepting my request. At 1800hrs, I relinquished command of the RGP – the end of a 36 year long chapter. I handed over the Commissioner’s baton in a ceremony to Richard Ullger. I am proud to have served. It was clearly an emotional day for me and my family. I felt sad and bitter but at the same time knew that my ethics and morals remained intact and that for me was very important. Thankfully too, my health returned to normal very shortly after I retired – I had somewhat sadly accepted that I was no longer able to continue serving in the RGP and set my mind to turning a new leaf in my life.

SWORN by the abovenamed **Ian McGrail**

this 20th day of June 2022

at *Phillips LLP*
292A Main Street
Gibraltar

Before me

Callum Smith
Commissioner of Oaths

Personal
Data

A Commissioner for Oaths

Presented by Charles Gomez & Co, of 5 Secretary’s Lane, Gibraltar. Solicitors for Ian McGrail