

Commissions of Inquiry Act/Inquiry Act 2024

INQUIRY INTO THE RETIREMENT OF THE FORMER COMMISSIONER
OF POLICE

Convened by a Commission issued by His Majesty's Government of Gibraltar
on 4th February 2022 in Legal Notice No.34 of 2022

**SIXTH WITNESS STATEMENT OF ASSISTANT COMMISSIONER OF
POLICE CATHAL YEATS**

Introduction

1. My name is Cathal Yeats, and I am the Assistant Commissioner of Police. I am in my 28th year of police service and have been the Assistant Commissioner since July 2020. This is now my sixth witness statement. My third and fourth witness statements dealt with disclosure issues or clarifications sought by Solicitors to the Inquiry (“STI”) as matters arose during the hearings. My fifth witness statement dated the 20th December 2024 (“5WSCY”) addressed issues raised by STI, specifically on the 27th June 2024 (after the Inquiry had heard closing submissions on the 25th and 26th June 2024). These issues were raised by the Government Parties lawyers Peter Caruana & Co (“PC&C”) on the 24th June 2024 (“**GOG June Disclosure Requests**”). It also dealt with further requests for information or clarification arising out of the further RGP disclosure which was given by the RGP (with express agreement with STI) on the 2nd September 2024 which was then shared with other Core Participants (“CPs”) on the 4th November 2024.
2. My 5WSCY also addressed additional disclosure requested by STI by letter dated the 9th December 2024 which was provided on the 20 December 2024. This dealt with the decision by STI in November 2024 to extend the date range of the disclosure search from the 12th May 2020 to the 9th June 2020 to the 1st January 2020 to the 30th June 2020. For clarity I will refer to the RGP September 2024 Disclosure and the RGP December 2024 Disclosure collectively as “**the RGP Further Disclosure**” specifically and all RGP Disclosure will be referred to as “**RGP Disclosure**”.

3. On the 25 November 2024 an application was made by PC&C for GOG Parties to have the Inquiry Hearing reconvened to be able to ask questions on the RGP Further Disclosure, and further disclosure from others, including Mr McGrail and Mr Richardson. The suggestion by the GOG Parties (rejected by the RGP) was that the RGP Disclosure was not as the RGP claim Comprehensive Disclosure. That application (which was not opposed by the RGP) was reaffirmed on the 10 January 2025 and this resulted in the Chairmans Ruling dated 10 February 2025 (“Ruling“) agreeing to the Inquiry Hearing being reconvened, to allow for questions to be put to COP Ullger and I, and former officers Mr McGrail and Mr Richardson in public.
4. I write this statement to further clarify questions by STI/CTI or the Chairman, identified in the Ruling at paragraphs 23 to 28 that relate to the RGP. Additionally, the observation or suggestion made in paragraph 19 of the Ruling that given I have had overall supervision of the disclosure process, I would be best placed to give an explanation for the “*alleged delays and failures in the process*“ of disclosure. In this context I note the contents of paragraph 67 of the Chairman’s ruling where he recognises that these are allegations and that no findings have been made.
5. The RGP rejects the suggestion that the RGP Disclosure has not been anything other than *Comprehensive Disclosure* at all material times. Taken with our understanding of paragraphs 23 to 28 of the Chairman’s ruling, in the RGP’s view, the issue reduces to the narrow point of disclosure of WhatsApp messages. Notwithstanding that, I have also addressed the disclosure process undertaken by the RGP in this statement. For ease of reference, I have divided my statement in two parts, the first deals with paragraphs 23 to 28 of the Ruling and the second part deals with the RGP disclosure process.

PART1– Paragraphs 23 to 28 of the January 10thRuling.

Pocket Notebook and Day Book Policy

6. In May 2024 and as a result of matters that arose in the Inquiry Hearing a Pocket Notebook & Day Book policy was created. The policy was endorsed by the Gibraltar Police Authority on the 3rd of November 2024. The policy requires all pocket notebooks and day books to be handed in to the Information Management and Vetting Unit (IMVU). An exercise to collect all pocket notebooks and day books was conducted and used pocket notebooks and day books are now stored with the IMVU. I provide a copy of the policy as **CY/WS6/1**.

The RGP Work Phones

7. To provide context in July of 2019 a data breach occurred when an RGP constable responding to a traffic collision used their personal mobile device to record private CCTV footage of the accident. In order to secure the evidence, the officer shared footage to his response team's WhatsApp group. The video was shared outside the group and became widely shared in Gibraltar via WhatsApp.
8. In response to that incident on the 18th of July 2019 a Force Order entry was issued prohibiting the use of personal mobile phones for work purposes, **CY/WS6/2**. The instruction continued to allow the use of personal devices for administrative purposes.
9. In August of 2019 a number of mobile devices were obtained and issued to relevant officers the list of relevant officers is contained in a Force Order entry issued on the 26th of September 2019, **CY/WS6/3**. The list was incorrect, and an amended version was published on the same day, **CY/WS6/4**. Arrangements with Gibtelecom were ongoing **CY/WS6/5**.
10. The phones were setup by an RGP constable who was directed to do so. The government's Information Technology and Logistics Department (**ITLD**) had been asked to setup the phones for the RGP and had refused to do so arguing that their remit was limited to the RGP's computer network and devices. The Chairman will recall our concerns with not being able to rely on our own IT department and that we suggested for recommendations to be made in this respect.
11. The phones were all Samsung A10 devices running the Android system. All phones were linked to a Google email account which was created for the purpose of setting up each device.
12. In November of 2020 a small number of telephones were changed to Apple devices. This included telephones for Commissioner Ullger, Superintendent Richardson and I. The phones were again setup by RGP officers. The phones are Apple iPhone SEs running the Apple iOS system. The apple phones were linked to an Apple iCloud email account created for the purpose of setting up each device. Both Mr Ullger and I still have use of these devices. An email discussing this with the then Senior Executive Officer is provided **CY/WS6/6**. In December 2020 I wrote to the Higher Executive Officer informing her that Mr Ullger, Mr Richardson, another officer and I had returned our Samsung phones and had been issued Apple iPhones. The RGP serial numbers of the phones are included (there

is an error as I cite the same number for my Samsung A10 as I do for Mr Ullger's). I provide these emails as **CY/WS6/7**. A search for the Samsung devices bearing these serial numbers has located two of them. Both are in use by officers, one is the Crown Sergeant's phone and in use in the Control Room and the other was in use with the Victim Support Unit. Both phones are now with our Digital Forensics Unit, (DFU) for forensic examination.

13. I address this further in the "SMT WhatsApp Chat" section of this statement where I will also return to the issue of the change of email accounts to which the phones were linked later in this statement as it is relevant to the WhatsApp data that has been available on work devices to Mr Ullger, Mr Richardson and I since late 2020.
14. At paragraphs 14 and 15 of the Ruling the observation is made that it is not clear whether Mr Ullger and I had work phones. On the 22nd of August 2024 Mr Cruz emailed STI informing them of what we then believed was available in terms of further disclosure following the STI's June 2024 request for WhatsApp messages **CY/WS6/8**. The email contained an Excel spreadsheet which shows the different phone number messages we were considering. The table lists two numbers for Mr Ullger, *5000 and *9001 his personal and work phone respectively and two numbers of me *6000 and *9002, again my personal and work phone.

The RGP Mobile Device Policy

15. The RGP Mobile Device Policy was created in late 2019 in response to the issue I describe in paragraph 7 and the issue of RGP mobile phones to a group of officers. The policy was exhibited as exhibit **CY/WS5/2** of my 5WSCY.
16. At paragraph 3.3 the policy states that:
 - a. *"when an officer or support staff member moves from his relevant post, the officer/ support staff member will with assistance of the RGP IT technician ensure that his/ her work issued mobile device is wiped of all personal data and is handed over to the person taking over their role."*
17. I believe that both the work phone in use by Mr McGrail and that in use by Supt Wayne Tunbridge (he retired on in February 2021 after a period of absence), during the period from January 2020 to June 2020, would have been treated in this way, i.e. re-purposed.

18. At paragraph 11.1 the policy makes clear that the contents of a work mobile phone may be disclosed in connection with an offence or in connection with legal proceedings.
19. The policy is silent on and does not dictate whether the devices should be backed up or how to retain data. In the context of this statement this is only relevant to the use of the WhatsApp application as RGP emails (although accessible on the mobile phones) reside on the email server managed by ITLD. Emails are therefore retained regardless of whether the phone is wiped, and all data is removed.
20. The suitability and effectiveness of the policy has been questioned in the Ruling, and we have considered these observations. The RGP accepts that improvements to the policy and its procedures to handle mobile devices are required. Steps taken to address these shortcomings, including prior to the Ruling, have been taken to address these issues:
 - a. Devices in the possession of retiring officers are having their data extracted and retained. This started in May 2024 when Supt Field commenced retirement leave.
 - b. All RGP mobile devices are in the process of having their data extracted and retained by our DFU.
 - c. The “Mobile Device Policy“ is being further reviewed in light of the Ruling and will address the issue of data retention and will describe procedures to do so.
 - d. A separate “Use of Personal Mobile Devices on Duty Policy“ has been drafted and is under consideration.
 - e. Inquiries have been made with a local company to secure Mobile Device Management services. This will provide a means of managing all the RGP devices whilst securing the data and the devices.

The SMT Chats

21. The SMT Chat was created over ten years ago. The members of the chat were the then commissioner, the chief superintendent and the three superintendents. The telephone numbers linked to the group were numbers in use by those officers and which were at the time paid for by the RGP but in use on personal devices.

22. In the summer of 2019 as I explained in this statement, a number of officers were issued with RGP mobile telephones. This included all senior officers from the rank of inspector. The SMT Chat was moved from the personal devices to the work issued devices at that point.
23. There would have been five members of the SMT Chat during the entire period 1st of January 2020 to the 30th of June 2020. The commissioner, assistant commissioner and three superintendents. The numbers linked to the SMT Chat would have been [REDACTED]9010, [REDACTED]9001, [REDACTED]9002, [REDACTED]9003 and [REDACTED]9004.
24. Telephone number [REDACTED]9010 was a Samsung A10 issued to Commissioner McGrail and telephone number [REDACTED]9003 was also a Samsung A 10 issued to Supt Tunbridge. As I say in paragraph 16, I believe both phones were repurposed following their retirement and the numbers and handsets reissued to other officers. As has also previously been said the data was not retained.
25. The other three mobile phones were also Samsung A10s which as I explain in paragraph 12 were replaced by Apple iPhone SEs in November 2020. The same telephone numbers were retained by each of the relevant officers.
26. I now realise having reviewed all disclosure matters, that neither the RGP nor Mr Ullger, Mr Richardson or I have had access to any WhatsApps held on RGP devices since November 2020. This includes the SMT Chat. This is because when the change of phones occurred from the Samsungs to the iPhones different email accounts were used to setup the phones. As I said in paragraph 11, 12 and 13 the relevance is that any WhatsApp backups on the Samsung devices would have backed up to the associated Google gmail email account. Therefore, when the iPhones were first setup with the Apple icloud email account, the WhatsApp application was unable to restore any messages. This is because WhatsApp backups are stored in the associated email account linked to the phone.
27. I realised that this was the case in February of 2025 when considering how to comply with the Ruling, and the Inquiry's disclosure request, it occurred to me, we should try and restore WhatsApp backups to obtain the requested data. It immediately became clear that this was not possible for reasons I have explained in the previous paragraph. The situation as I describe it has been confirmed to me by DC Garcia of the RGP's DFU.

28. It is now clear that by the time letters requesting evidence and disclosure from the then STI were received in July of 2022, that neither the RGP, nor its senior officers with Apple devices, had access to the SMT Chat or other WhatsApp messages on the RGP mobile phones, for the relevant period (1st of January 2020 to the 30th June 2020).
29. Notwithstanding this, and in an abundance of caution, an exercise to establish whether any of the over fifty mobile telephones that the RGP has today could be one of those in the possession of Mr McGrail, Mr Ullger, Mr Richardson or myself in early 2020 is being conducted. The intention is to have any such device identified then forensically examined by the DFU in the extremely unlikely event that any relevant data can be recovered. This exercise will be completed not later than the 31 March 2025. The Inquiry will be immediately informed if the exercise yields any relevant data, although as I say, I understand this to be extremely unlikely.

The Alleged Deletions and further March 2025 disclosure.

30. The Further RGP Disclosure of December 2024 contained a report created at 15:26hrs on the 10th of December 2024 with the messages between Mr McGrail's phone and Mr Richardson's phone extracted from the image of Mr McGrail's phone obtained by SEO McVea. The report was created by PS Daniel Caruana of the RGP working on data originally extracted by DC Mussen of the Police Service of Northern Ireland.
31. The first page of the report has a "Contents" section. That section contains a table with three columns: "Type", "Included in Report" and "Total". Under "Type" the table contains a line for "WhatsApp" and in its third column, "Total" shows 615 of which there are 88 deleted. DC Garcia of the DFU has clarified that this refers to the total number of chats contained in the WhatsApp application, this includes group chats or chats with other WhatsApp users. The number 615 means that there are 615 total chats with other WhatsApp users identified by the forensic software of which 88 of those have been deleted. It does not mean that there are 615 messages between Mr McGrail and Mr Richardson of which 88 messages have been deleted. The number of messages for the relevant period (1st of January to the 30th of June 2020) is 30 and is shown in the line containing "Instant Messages."
32. The section titled "Instant Messages" commencing on page 2 presents the information in a table. The seventh column is titled "Deleted". None of the 30 messages are shown as deleted. This was communicated to STI by our counsel Mr

Cruz of Ellul & Cruz and is reflected in paragraph 27 of the Ruling. I am able to confirm this position.

33. As DC Garcia says at paragraph 15, page 3 of his statement of the 11 March 2025:

- i. *“From those 615 WhatsApp chats, one of those chat is a chat between Mr Ian McGrail and Mr Paul Richardson. This chat contains 153 messages. The first one was sent on 30/07/2016. I have filtered this chat between the data parameters provided to me, them being all messages between 01/01/20 to 30/06/20. This returned 30 messages. There are deleted recovered messages within this chat but none between the date parameters provided.”*

34. The same applies to the report on Mr Wyan’s personal phone and his communications with Mr Richardson. The report in its contents section states that there are 306 of which 13 are deleted. As I explained in paragraph 30 this means that there are 306 chats or groups with third parties of which 13 are deleted.

35. DC Garcia again addresses this in his statement at paragraph 16:

- i. *“I have viewed the data set on Physical Analyzer 10.4, (forensic sofifware program used to decode and analyser [sic] data) and I am able to confirm that in this data set there are 306 different WhatsApp conversations ofiwhich 13 have been deleted. This means there are 306 different conversations with 306 different persons. From those chats there are two with Mr Paul Richardson. One of those however is blank. The other WhatsApp conversation was started on 5/5/17 with a total of 1372 messages. I then applied the requested date parameters, them also being 01/01/20 to 30/06/20. This showed 223 messages.”*

36. The report on the chat between Mr Wyan and Mr Richardson included in the RGP Further Disclosure (provided in December 2024) had the more limited initial date range applied and was only for the 12th of May to the 9th of June 2020, the date parameters which had been requested by STI in June 2024. The extended range for the 1st of January 2020 to the 30th of June 2020 requested on the 9th of December 2024 has now been provided to the Inquiry.

37. As Mr Wyan states in his Fourth witness statement of the 11 of March 2025 he did not disclose his WhatsApp messages prior to the main Inquiry hearing because the phone in which they are contained was inoperable. Following the request for disclosure made by the STI in June of 2024 and given the forensic exercise we carried out with the SIO McVea McGrail phone image, he decided to see whether the DFU could attempt to have his device forensically examined. As a result, messages have been retrieved and shared with the STI and CPs.
38. As I stated in 5WSCY of December 2024 for reasons that he had been unable to explain Mr Ullger did not have access to any WhatsApp messages between himself and Mr McGrail for the relevant period. He has now provided the Inquiry with his fifth witness statement dated the 11 March 2025 explaining this.
39. However, and in order to assist the Inquiry, the RGP chose to forensically analyse the SIO McVea image of Mr McGrail's phone (having previously obtained his consent via his lawyers) and Supt Wyan's phone, (as explained above). Such forensic software reveals possible deletions, or alteration in record. I am not aware that anyone other than the RGP, or its former officers, has gone to this length or been invited to do so. Contrary to what has occurred and as Mr Cruz has explained to us Commissioner Ullger could have filed a witness statement to say that he had no messages, nor any devices in his control with any messages. Not arranging to forensically examine the SIO McVea image of Mr McGrail's phone would almost certainly have avoided some of the issues which have now arisen. Voluntary thoroughness and willingness to assist appears to have received no credit or been recognised, this statement should assist in clarifying the lengths that the RGP have gone to assist.
40. In hindsight, due to the extraordinarily tight timelines we worked to in December of 2024 it would have been preferable to give further explanation of the extraction reports disclosed to the Inquiry at that time. For example, explaining what the references to deleted chats meant would have avoided some of the uncertainty now created. The RGP's eagerness to assist the Inquiry in the time frame we were given has had the unfortunate consequence that it is now attracting criticism after having deployed forensic tools to attempt to recover data. Data which was not available to it at the time it conducted its disclosure exercise. In our view reasonable searches were conducted by officers at all times and relevant material was disclosed.

PART 2 – The Comprehensive RGP Disclosure Process

41. The RGP gave full and comprehensive disclosure of what it understood to be relevant (at the material time). We have given further disclosure in respect of every request by STI and in reaction to events. My previous witness statements are evidence of that as are the numerous exchanges between our lawyers and the former and current STI. We recognise that disclosure is based on the *Document Protocol*, specific requests made by the STI, and an assessment of *Relevance*, to issues on the Provisional List of Issues (“**PLOI**”). We also recognise the continuing obligation to disclose, and events and oral evidence during the Inquiry Hearing from the 9th April 2024 to the 9th May 2024 gave rise to an awareness of what further disclosure may be deemed relevant by particular CPs. The government parties’ disclosure request of late June 2024 is an example of this.
42. The RGP Further Disclosure is not an acknowledgement that there was any failing in our disclosure process, but on counsel’s advice, and for transparency, we have provided any WhatsApp connected with the PLOI even where we consider them irrelevant. In the RGP Further Disclosure the RGP has disclosed documents which it believes may be connected with, rather than relevant to the PLOI. In fact, an unredacted version of the disclosure was provide to STI for comparison purposes, see the letter dated 20th December 2024 page 2, paragraph 3, **CY/WS6/9**.
43. The RGP has been criticised for not providing full disclosure, we do not think that this criticism is at all justified. The relevance test that the RGP has applied throughout, is what Mr Cruz, explained to us following initial clarification from Attias & Levy (“**Former STI**”) when the first version of the Protocol for Receipt and Handling of Documents, Redaction and Records Management¹ (“**the Protocol**”) was made available, and subsequently from Triay Lawyers (“**STI**”). It was based on the definition of “*Relevant Documents*,” established by the STI, as it applied to the PLOI for determining the relevance of a particular document to the Inquiry.
44. The Protocol provided that: ““**Relevant documents**“ *are those which, having regard to the Inquiry’s Terms of Reference, it is likely that the Inquiry panel would (if aware of their existence) wish to be provided with.*”

¹ First Issue on 22 September 2022 under the authority of the Commissioner;

45. The RGP was not a CP at the beginning of the Inquiry process when the PLOI was determined, nor were we familiar with the Protocol or the thinking behind it. The RGP became a CP on the 20th October 2022, after the second preliminary hearing on the 20th September 2022, and following a successful application to that effect.
46. Given the PLOI the RGP as a CP had (by a very significant margin) the most significant and onerous disclosure obligation. This was not the case of a CP or witness checking their records, lap top or other devices for relevant material. In the case of the senior officers involved in the Inquiry, the disclosure exercise has had to be undertaken whilst continuing to manage daily business, which became more challenging because of numerous Inquiry related criminal investigations, including that arising from the “*Whistle Blowers*” or “*Job Offers*” complaint. All this coupled with the related depletion of human resources (the force was at one point short staffed by up to 40 police officers).
47. After the second Preliminary Hearing a meeting with the Former STI took place on the 20th October 2022 with Mr Ullger, and I present. The meeting was arranged to discuss disclosure and the test of relevance. Following the meeting the Former STI wrote on the 4th November 2022 (CY/WS6/10) also referred to by me in 5WSCY:
- i. *“that documents will be relevant if they touch on Mr McGrail's personal conduct in relation to the discharge of his duties as RGP Commissioner, either directly or from a supervisory perspective, and more so in relation to the issues set out in the Provisional List of Issues” and further clarified that: “such indication is not intended to be applied as a firm criterion or yardstick to determine relevance, but is tendered by way of informal guidance by way of assistance only.”[emphasis added].*
 - ii. The Former STI stated: *“that searching through every email is likely to be inappropriate, and in our respectful view you should use your discretion in applying filters for example, emails sent to or from persons named in the disclosure requests over date ranges when it is likely that communications on the relevant matters took place”.*
 - iii. He also stated that: *“In our view a thorough search in line with CPR methodology is likely to satisfy the standard in the Document Protocol in many cases.”*

- iv. Finally, the Former STI confirmed that: *“We do not intend to require Core Participants to run your proposed searches by the Inquiry team, but if issues arise the Inquiry may in due course, ask you to provide it with your methodology and, if necessary conduct further searches”*.
 - v. Former STI indicated that further assistance was available.
48. As we remained concerned with the meaning of the phrase: *“would (if aware of their existence) wish to be provided with”* and the burden being placed on the RGP by having to interpret what another party might consider relevant, we wrote to the Former STI on the 11 November 2022 (CY/WS6/11) to seek further clarification.
49. We made clear that the RGP considered a *reasonable search* must be a *comprehensive, thorough and rigorous* search and that is what the RGP would carry out.
50. Also contained in that communication to the Former STI was confirmation that the RGP would initiate the process of collating all relevant documents. To do so, we created a list setting out different categories (**“The RGP Documents”**):-
- a. *category A: Documents they recognize as relevant, and disclosable (i.e. not subject to Privilege or Public Interest Immunity);*
 - b. *category B: Documents they recognize as relevant, but non-disclosable (ie subject to Privilege or Public Interest Immunity);*
 - c. *category C: Documents they recognize as relevant, but they may well fall between category A and B (ie possibly subject to Privilege or Public Interest Immunity);*
51. Copies of the network file shares and email mailboxes for relevant officers were requested, and provided to the RGP, by His Majesty’s Government of Gibraltar’s ITLD. This provided the best means of carrying out comprehensive searches and complying with the Inquiry’s call for disclosure. We maintained the Former STI abreast of progress and of our intended methodology in the said letter of the 11th November 2022 and then in further letters of the 23th November 2022 and 8th December 2022 (CY/WS6/12). The Former STI agreed to this process in late December 2022 (CY/WS6/13) and both in December 2022 and early January 2023 the RGP were able to share some information with the Former STI. Disclosure Lists, and documents were shared by letter (and memory stick) on the 15th February

2023 (although the letter is incorrectly dated the 15th of March 2023) with STI (CY/WS6/14). To confirm the correct categorisation of documents had been made we (by letter of the 8th December 2022) requested a meeting with the Former STI and Counsel to the Inquiry (“CTI”). This was particularly necessary on documents which were not obviously relevant. A specific example was included in that letter, for example, documents that touched on the “*Alcadesa issue*”, which pre-dated Mr McGrail’s appointment as Commissioner of Police. The point was also made that there were numerous documents placed in Category C, simply because the RGP could not assess relevance without a deeper understanding what the Inquiry Panel wanted to see.

52. The RGP did not know what the arguments, relative to the PLOI, other CPs were advancing until we had sight of their witness evidence. This is why the RGP applied at the fourth preliminary hearing, on the 19th July 2023, to amend the PLOI by inviting the Chairman to reduce the PLOI to: (a) the Collision at Sea, (b) the Report of HM Inspectorate and (c) The Conspiracy Investigation. The Chairman ruled on the 26th July 2023 that all issues should remain. The RGP also observed that the breadth of the PLOI was causing a significant burden on the RGP because of disclosure.
53. During the initial phase of the disclosure process and before the STI took the process over in the spring of 2023, all RGP Documents were subjected to two tier reviews, namely by the RGP disclosure team and then by the RGP senior officers together with our legal team led by Mr Cruz. A report on progress was prepared by Supt Wyan in February of 2023 in advance of the third Preliminary Hearing. I provide the report with this statement, CY/WS6/15. By that time around 910,000 pages of digital material had been reviewed for relevance and around 600,000 remained. A further 7,000 pages of hardcopy material had been reviewed with almost 19,000 pending. At that time the RGP had been unable to review email documents but estimated there were likely to be hundreds of thousands of emails to review.
54. As was evident from the 8 December 2022 letter to Former STI from Mr Cruz, matters were further complicated by the Former STI becoming involved in a data breach investigation.
55. On the 31st January 2023 the RGP and all CPs received a letter from the CTI advising of the decision to replace the Former STI and appoint the STI. Email and letter interaction between Mr Cruz and both the CTI and the STI in early February 2023 followed. The purpose was to remind both of the 8th December 2022 request by the RGP to meet with them on disclosure. On the 6th February 2023, the STI

agreed to meet following the third preliminary hearing of the 8th February 2023. The meeting occurred on the 10th February 2023. Helpful clarification was given and as had been agreed on the 15th February 2023, and as explained above a tranche of documents (Category A documents) was given by the RGP to STI on a memory stick. All of this took place with the backdrop of logistic issues we had because of the RGP dependence on ITLD which did have some impact on timing.

56. Further disclosure of Category B Documents took place on the 2nd March 2023. Meetings took place on the 3rd March 2023 with STI and CTI and subsequently. On the 14th March 2023 DS 130 Paul Clarke was invited (by the Chairman) to give evidence and produce a witness statement, further disclosure was given to STI in this respect.
57. The process of ongoing disclosure continued between the RGP and the STI including on occasions disclosure related to other CPs and witnesses, Mr Edward Yome, Mr Ian McGrail and Mr Paul Richardson. This included facilitating and providing access to RGP data, as required by the two Orders for Disclosure, (CY/WS6/16).
58. Matters were complicated on the 17th March 2023 when the RGP disclosure process was questioned (this came to light as a result of Whistle Blower statements provided to the Inquiry) with the suggestion of wrongdoing by the RGP. Commissioner Ullger referred the matter to SIO McVea for investigation. The result of the investigation which was communicated to the Inquiry and all CPs was that SIO McVea found no issues, and no wrongdoing. This caused inevitable delay to the disclosure process as explained in a letter from STI to CPs dated 6th June 2023 (CY/WS6/17).
59. On the 27th April 2023 the CTI suggested to Commissioner Ullger a variation of the disclosure process. The proposal which was immediately agreed to was for the STI to review the hard copy documents collated by the RGP disclosure team and for the electronic data to be searched using search terms provided by the STI. On Commissioner Ullger's instructions Mr Cruz wrote to the STI and CTI on the 4th May 2023 to give effect to that process.
60. The disclosure process had changed and on the 15th May 2023 this point was made in an email to STI by Mr Cruz (CY/WS6/18): *"On the RGP disclosure process that has now changed at your subsequent request from that agreed and actioned by your predecessor and its advisors it is important that all outstanding issues are addressed."*

61. On the 16 May STI responded by email: *“In so far as the ongoing RGP disclosure review is concerned, Sebastian Triay and Rupert Moffatt from this office attended the Secretary’s Lane premises last week and completed the review of physical files in the presence of DC Currer. They are waiting for scanned copies of documents which were identified as relevant or potentially relevant by them to be provided by DC Currer. In addition, we have provided the RGP with proposed search terms and I understand DC Currer is in the process of running these against relevant individual mailboxes/custodians. Once we have PST files from DC Currer, we then propose to upload the same to a disclosure review system so that we can undertake the necessary relevance review”*.
62. On the 6th June 2023 STI wrote to all CPs (CY/WS6/17) and amongst other issues explained that the RGP disclosure would be circulated with what it labelled Track B disclosure. It confirmed that given the issues occasioned by the, in my view unfounded accusations, and the consequent delay: *“The Inquiry has been liaising with the RGP about this and recently, has taken over overall responsibility for the review of RGP disclosure and will be conducting the requisite relevance tests.”* I should add that this had always been the RGP’s preference, i.e. that it should not be required to apply the relevance test on behalf of the Inquiry, on documents not being relied upon by individual RGP witnesses in evidence.
63. For the avoidance of any doubt the STI made clear in his letter of the 29 June 2023 (CY/WS6/19) that:
- “We are also writing to enclose a copy of Mr McVea report into the investigation into the Secretary’s Lane Premises as set out in our letter dated 6 June 2023. We also wish to clarify that our decision to take over the RGP disclosure process pre-dated the criminal investigation and is not as a result of any failings by the RGP in the disclosure process.”* [emphasis added].
64. Over 2300 documents were identified and provided following the searches of RGP data conducted by STI. Further and very comprehensive RGP disclosure was given by STI to CPs since that date.
65. The RGP has always reacted expeditiously to all disclosure requests. During the Inquiry hearing, as matters arose in evidence, we responded as quickly as possible to requests for additional disclosure. This is evident from my Third and Fourth Witness Statements and after the end of the hearing, by my 5WSCY.

66. I apologise for the length of this statement, but the RGP takes the suggestion that we may have failed, or delayed, in the disclosure process very seriously. We do not believe we have either failed to give comprehensive disclosure, or timely disclosure. Neither have we failed in our disclosure obligations despite the considerable challenges we have faced. challenges including those identified above, most of which have not been of our making.

STATEMENT OF TRUTH

I believe the contents of this witness statement to be true.

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NAME: CATHAL KEATS

DATE: 11 March 2025