

Independent Jersey Care Inquiry

Preliminary Hearing

June 16, 2014

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terms of reference. 18 compliance with the summons issued against that	1	Monday, 16 June 2014	1	correspondence from his Department on Friday and if
the second public session of the Independent Jersey Care first public hearing Logalizated what the Inquiry was first public hearing Logalizated what the Inquiry was diorg and how we intended to go about our work. We have already put a considerable amount of judicy and how we intended to go about our work. We have already put a considerable amount of judicy and how we intended to go about our work. See We have already put a considerable amount of judicy and how we intended to go about our work. We have already put a considerable amount of judicy and a second to please tell the Inquiry the judicy and the Inquiry the position of the disclosure of judicy and the Inquiry the John Honday but will be available by telephone if necessary. He indicates that he represents the ICLA only in this matter. Filling the says: mater is Mis Jerama say via know and 1 appear as co-coursed to to the Inquiry along with MF attraick Sadd. Miss Jerama say via know and 1 appear as co-coursed to the Inquiry along with MF attraick Sadd. Madam, before you today we have Alvocate Lacey who Madam, before you today we have Alvocate Lacey who Madam, before you today we have Alvocate Lacey who Add Cutture Department and the Health and Social the Chief Minister's Department, the Education, Sport Add Cutture Department and the Health and Social Accurate Department Accurate	2	(2.00 pm)	2	I may ask that that letter be handed up to you, in
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6 first public hearing I explained what the Inquiry was 7 doing and how we intended to go about our work. 8 We have already put a considerable amount of 9 information onto our website and now for today I am 10 going to ask commet to please tell the Inquiry the 11 position to date in relation to the disclosure of 11 position to date in relation to the disclosure of 12 documents. 13 Submissions by MS JERRAM 14 MS JERRAM: Thank you, Madam Chairman, Good afternoon, My 14 Inquiry. 15 name is MS JERRAM Thank you, Madam Chairman, Good afternoon, My 16 Inquiry. 16 In relation to the disclosure of 17 Madam, before you today we have Advocate Lacey who 18 appears on behalf of three States of Jersey perturents, and Culture Department and the Health and Social 19 the Chief Minister's Department, the Education, Sport 19 the Chief Minister's Department, the Education, Sport 20 and Culture Department and the Health and Social 21 Services Department and the Health and Social 22 Departments that is relevant for the purposes of the 23 matters you need to decide today. 24 The States of Jersey Police are represented by 25 Robert MacRae who sits at the back, I hope you can see 26 Department, this is a preliminary hearing to 27 THE CHAIR: Yes, I will move slightly so that I can. 28 MS JERRAM: The Altorney General is represented in a limited 3 MS JERRAM: The Altorney General is represented by 3 thim. 4 Madam, Chairman, this is a preliminary hearing to 4 capacity by Jaura Stephenson who sits just to the right 5 here. 5 The States of Jersey Police are represented by 6 Madam Chairman, this is a preliminary hearing to 6 Madam Chairman, this is a preliminary hearing to 6 Madam Chairman, this is a preliminary hearing to 6 Madam Chairman, this is a preliminary hearing to 6 Madam Chairman, this is a preliminary hearing to 6 Madam Chairman, this is a preliminary hearing to 7 deal with a number of procedural issues that have arisen 8 during the course of the Inquiry's preparation for the 9 the Inquiry's work. 19 Use of material by the Health an	4	the second public session of the Independent Jersey Care	4	Gordon on behalf of the JCLA. (Handed).
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	25	-	25	_

1	route in your judgment.	1	Of course in carrying out that work the Inquiry will
2	The second issue goes to the issue of redaction	2	have to consider a wide range of documentation from
3	which I shall come to in a moment and the issue for	3	a number of different sources. It will include generic
4	determination is whether you would wish to add an	4	documentation about legislation, how homes were set up
5	amendment to the wording of paragraph 24.3 of the Data	5	and run, how they were governed, disciplinary
6	Protection Freedom of Information and Redaction Protocol	6	proceedings and so forth, but alongside that generic
7	to allow the facility expressly for a challenge to any	7	material there will be a large number of documents
8	determination that you make about provisional redactions	8	relating to individuals and the most recent
9	submitted by the interested parties and I will give	9	correspondence from Advocate Lacey would suggest that
10	a further explanation of that in due course.	10	there are around 12,000 children's files and another
11	The third issue goes to confidentiality undertakings	11	2,000 staff and foster carer files.
12	and as a result of issues raised both by the Department	12	However, and crucially for the purposes of your
13	and the SOJP as to whether you are satisfied with the	13	consideration today, the documents that is of most
14	confidentiality undertakings which are set out in the	14	immediate concern to the Inquiry is that held by the
15	protocols and which I will take you to in due course.	15	Historic Abuse Redress Scheme, because this, as we
16	The fourth issue which we have already alluded to is	16	understand it, brings together all of the crucial
17	the application by the Attorney General for interested	17	paperwork in relation to each of the 133 applicants to
18	party status, and then finally a matter of housekeeping	18	that scheme.
19	as to whether the interested parties want to make	19	Likewise the evidence held by the States of Jersey
20	opening statements at the opening of the Inquiry.	20	Police and in particular their investigation files into
21	So those are the issues before you. Before you hear	21	alleged abuse are of central and primary concern to
22	from the interested parties on those matters, in our	22	the Inquiry.
23	submission it would be helpful to set out some	23	So whilst in the Jersey archive there is bound to be
24	background, especially in relation to the protocols so	24	a very very significant body of evidence which will take
25	that it is understood by all how the procedures for	25	many weeks to consider, the crucial evidence to start
	5		7
1		-	
1	obtaining evidence and carrying out redactions is	1	the Inquiry's work is contained in the Redress Scheme
2	envisaged to work on behalf of the Inquiry.	2	documentation and the police documentation.
2	envisaged to work on behalf of the Inquiry. Members of the Panel, you will know that in order to	2	documentation and the police documentation. Members of the Panel, you are aware that much of the
2 3 4	envisaged to work on behalf of the Inquiry. Members of the Panel, you will know that in order to report on the very wide-ranging terms of reference set	2 3 4	documentation and the police documentation. Members of the Panel, you are aware that much of the documentation I have referred to is likely to contain
2 3 4 5	envisaged to work on behalf of the Inquiry. Members of the Panel, you will know that in order to report on the very wide-ranging terms of reference set by the States of Jersey that you will have to	2 3 4 5	documentation and the police documentation. Members of the Panel, you are aware that much of the documentation I have referred to is likely to contain the most sensitive of data about young and vulnerable
2 3 4 5 6	envisaged to work on behalf of the Inquiry. Members of the Panel, you will know that in order to report on the very wide-ranging terms of reference set by the States of Jersey that you will have to investigate into a very wide-ranging set of issues.	2 3 4 5 6	documentation and the police documentation. Members of the Panel, you are aware that much of the documentation I have referred to is likely to contain the most sensitive of data about young and vulnerable individuals who were in care in Jersey and there will be
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1	of birth are redacted from documents that by piecing	1	"In order to restrict the disclosure or publication
2	together collateral or snippets of information, a person	2	of the identity of certain persons and information,
3	is capable of being identified and that is a real	3	the Inquiry has implemented a general protective ruling
4	concern and it is one that's been expressed on behalf of	4	being a general ruling to protect information provided
5	the States and the SOJP and it is a concern that we	5	to the Inquiry. The general protective ruling means
6	share.	6	that the following information will be redacted from all
7	Madam Chairman, it was with those concerns in mind	7	material before it is disclosed by the Inquiry to
8	that prior to the launch of this Inquiry on 3 April	8	interested parties and/or published on the Inquiry's
9	a series of procedural protocols were drawn up to deal	9	website."
10	with the provision of evidence and the management of	10	Number 1:
11	that information. The purpose of the protocols as far	11	"The names and identifying details of: 1,
12	as the documentation is concerned is to ensure that all	12	individuals identified as having claimed to have been
13	proper safeguards are in place and to ensure that there	13	abused or as having been a witness to any abuse alleged;
14	is no inadvertent identification of those who do not	14	2, any individuals accused of abuse except for those who
15	wish to be named.	15	have criminal convictions for that abuse."
16	Members of the Panel, to assist you and I hope the	16	So pausing there, as a matter of course the names
17	interested parties I will now take you to certain	17	and identifying details of those two classes of
18	passages in the protocols to explain how sensitive	18	individual will not be published in any document, save
19	material is to be dealt with. In broad terms though	19	where a person accused of abuse has a criminal offence
20	there are two key areas. The first as you know is	20	conviction in that respect.
21	redaction, which means the blacking out in documents of	21	Then going on:
22	information said to be sensitive, and the second is how	22	"Individuals not falling into any of the above
23	documents given to the Inquiry will be classified and	23	categories whose identity the Inquiry considers ought
24	published.	24	not to be disclosed."
25	If I may take you, Members of the Panel, firstly to	25	So pausing there, it is open for an interested party
	9		11
1	tale 7 in the hours lie the the beautiful and four to do the thin	1	to and a configuration of the configuration of the latest section
1	tab 7 in the bundle that's been produced for today, this	1	to make application to you that a particular name should
2	is the key protocol I am sure that will be the focus of	2	not be disclosed or for reasons identified.
3	submissions today. It is the Data Protection Freedom of	3	Then 4:
4 5	Information Redaction Protocol and you will see from	4	"Any applicants who have successfully applied to
6	paragraph 2 that the purpose of the protocol is to set	5 6	the Inquiry to not have their identities revealed and
7	out how the Inquiry will deal with the data that it	7	who do not fall into any of the above categories."
8	gathers.	8	Then 17.2 "Other personal information":
9	Paragraph 4 sets out the sort of documentation that		"This does not extend to individuals' names, save
10	the Inquiry expects to receive. Those include documents	9 10	for those specified at paragraph 17.1 above, but would
	provided to the Inquiry by any individual institution,		include telephone numbers, dates of birth and home
11 12	organisation or body, witness statements, evidence given	11 12	addresses, unless there are particular circumstances
13	by witnesses at oral hearing and evidence that	13	that make such personal information relevant to the Inquiry's terms of reference."
14	the Inquiry obtains from its own research or efforts.	14	• •
15	Now, in relation to the issue of redaction, if I could just take you on please to the redaction section	15	Then at paragraph 18:
16	on page 3 starting at paragraph 13, in recognition of	16	"In order to ensure compliance with the Inquiry's
17		17	general protective ruling, evidence providers are
18	concerns that evidence might identify individuals or	18	required to follow the following procedures in relation to the redaction of documents."
19	identify particular information about them that would	19	
20	mean that they were capable of being identified,	20	And the process set out there may be summarised as follows in relation to redaction: each evidence
	the Inquiry will allow documents to be redacted in		
21 22	certain circumstances and to that end and you will	21 22	provider, that's the person asked to provide documents,
	see at paragraph 17 the Inquiry has already issued	23	will submit to the Inquiry documents provisionally
23 24	a general protective ruling and it may be helpful for me to read that out in full so it is understood.	23 24	redacted and that's to say that they highlight in yellow
2 4 25		25	those passages that they say should be redacted by
45	Paragraph 17: 10	∠ ⊃	the Inquiry before publication on the database, and it 12
	± 0		14

provisional reductions and there are two points to note here. Firstly of course you will be able to see the words highlighted in yellow and in any event he evidence provider will keep a clean, original copy of the document or under the protocol. Then you will see at paragraph 24 over the page, it reductions and emissibility in relation to paragraph 24 over the page, it reductions and emissibility in relation to paragraph 24 over the page, it reductions and emissibility in relation to paragraph 24 over the page, it reductions and emissibility in relation to paragraph 24 over the page, it reductions and emissibility in relation to paragraph 24 over the page, it reductions and emissibility in relation to paragraph 24 over the page, it reductions and emissibility in relation to paragraph 24 over the page, it reductions and emissibility in relation to paragraph 24 over the page, it reductions and emissibility in relation to paragraph 24 over the page, it reductions and emissibility in relation to paragraph 24 over the page, it reductions and emissibility of the removal or amendment of the functional evidence and it is therefore entitled to see it in its unreducted form, and it is therefore entitled to see it in its unreducted form, and its independent of the removal or amendment of the provisional reductions, or 3, the linguity has reduced the evidence provider and interested parties of the reduction specified the page at 77 you will see there is provisional reductions and the challenge process built in that that should not submit provisional reductions accordingly and its hepody with the challenge process built in that that should not submit provisional reductions accordingly and its hepody with the challenge process built in that that should not submit provisional reductions and the those concerns. The functive ruling has been made by the evidence provider and interested party is so that end is over reductive ruling, the page and the reduction of the protective ruling, the page and the reduction of the provision	1	will then be for the Inquiry to consider those	1	Madam Chairman, the other issue that's been raised,
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1	to the database and when they are given interested party	1	THE CHAIR: Who can actually access it, yes.
2	status they will have to sign confidentiality	2	MS JERRAM: Exactly.
3	undertakings as to their use of the material on the	3	Those obligations, as I say, from paragraph 15, are
4	database and to that end, Madam, can I turn you please	4	automatic and it is axiomatic that anyone who takes up
5	in the next tab, tab 8, to the general procedures	5	interested parties complies with those confidentiality
6	protocol and in particular paragraph 15 onwards.	6	undertakings.
7	This deals with undertakings that have to be signed	7	Madam Chairman, you will be asked to consider
8	by interested parties before they are allowed access to	8	whether those undertakings are sufficient for the
9	the documents database and it provides in paragraph 15	9	purposes of the Inquiry and I'm sure that you will hear
10	that:	10	submission on that from the other interested parties.
11	"A person, which includes an institution,	11	So that deals with the provision of evidence under
12	organisation or body, who is designated as an interested	12	the protocols and, as I have already indicated, both the
13	party and who agrees to such a designation automatically	13	States of Jersey Police and the States Department have
14	undertakes to be bound by the following confidentiality	14	been approached to provide documentary evidence.
15	provisions in respect of the Inquiry's work."	15	The other main issue before you today, Members of
16	You will see the wording of 15.1, it is a central	16	the Panel, is the appropriate mechanism by which
17	tenet of this undertaking that all material provided to	17	the Inquiry should obtain that documentation, both from
18	the interested party by the Inquiry is confidential and	18	the HSSD and the SOJP and this brings us back to whether
19	the interested party agrees to take all necessary steps	19	the consent route is the appropriate route, or whether
20	to preserve that confidentiality. Importantly the	20	the summons route is the appropriate route.
21	material provided is solely for the purpose of assisting	21	Madam Chairman, when you launched this Inquiry on
22	the interested party in assisting the Inquiry and for no	22	3 April on the issue of disclosure of documents you said
23	other purpose. So no publication outside the Inquiry.	23	the following, paragraph 96:
24	15.2 deals with this issue of disclosure or	24	"In relation to documentary evidence, to the extent
25	dissemination:	25	possible we anticipate that any documents we seek will
	17		19
1	"All intercented resulting and outside to the Legacius and	1	he manifed velometrily. We have no doubt that Israey's
	"All interested parties undertake to the Inquiry not	1 2	be provided voluntarily. We have no doubt that Jersey's
2	to disclose or pass on to any third party, other than to	3	public bodies and the other organisations involved will wish to cooperate with our work and provide the
3	interested parties' own legal representatives, any	4	documentation we request. These public bodies and other
4 5	document, witness statement, or other material supplied to it by the Inquiry."	5	organisations have made us aware, however, that there
6		6	are data protection considerations that apply to the
	15.3 deals with secure storage and at the end of the	7	
7 8	Inquiry you will see from 15.4 that:	8	documents. Therefore cooperation and willingness on their part to provide the documents will not be enough.
	"Any interested party at the direction of the		
9 10	Inquiry must return that documentation to the Inquiry,	9 10	There are powers for the Inquiry to summons documents,
	or destroy it at the Inquiry's request."		meaning that we can compel their production. Summonses
11	Importantly at 16 those confidentiality obligations	11	have therefore been issued and will be served shortly.
12	continue even after the Inquiry's work has finished and	12	The Inquiry understands that the public authorities or
13	at 17 and this may be of particular interest, that:	13	organisations generally accept that position. We are
14	"Where an interested party is an organisation or	14	keen to avoid any delay in the Inquiry's work and we
15	institution or other body, every individual who forms	15	anticipate that summonsing documents will help to
16	part of that interested party will be subject to the	16	minimise delay. Where we request documents to be
17	above confidentiality agreements."	17	produced we would normally expect to receive them within
18	And, Madam Chairman, you will know as a matter of	18	14 days."
19	practicality that where an organisation is given	19	Madam Chairman, the particular concern that you were
20	interested party status only limited numbers of licences	20	referring to then was the concern on behalf of the
21	are given for access to the database, so simply because	21	interested parties that in disclosing documentation to
22	say, for example, the Health and Social Services	22	you those interested parties would be liable to breach
23	Department is given access to the database, there will	23	their non-disclosure obligations under the data
24	only be very limited individuals within that	24	protection legislation and in relation to the consent
25	organisation	25	process, as you can imagine, obtaining consent in
	18		20

2.4

relation to every single document by every single individual would simply be unworkable, given the number of individuals who are likely to be named across all of the documentation that you are likely to see. Just to take one example, a list for example of the residents of Haut de la Garenne in any one year. It would be so time consuming and unworkable to approach every one of those individuals that it is not thought appropriate on behalf of the Inquiry for that to be the appropriate route.

As far as the Redress Scheme documentation is

As far as the Redress Scheme documentation is concerned, there may well be witnesses who mention other children in a children's home at the same time and again it would not simply be a question of getting the consent of the individual witness, it would be a question of getting the consent of all of those other people named in the statement and to that end it is unlikely, if that route were adopted, that the Inquiry would start its work within a reasonable period.

As you indicated, it appeared as at 3 April that it was accepted that the consent route was not workable and fortunately, as you indicated then, you had at your disposal an alternative means of compelling the production of documents, namely through a summons, and that is by virtue of Article 2 of the States of Jersey Powers, Privileges and Immunities Committees of Inquiry

Jersey Regulations 2007 which I will refer to as the 2007 Regulations. This provides an exemption to the non-disclosure provisions in the data protection legislation, meaning that an evidence provider can supply documentation without breaching its data protection duties.

Now, that issue, Madam Chairman, is entirely separate from the redaction issue and shouldn't be confused with it. Whilst an evidence provider is duty bound to provide documents requested under a summons, those documents still fall to be redacted in the usual way under the procedures described earlier. If there are issues over the extent of redaction in any document, that does not mean that the document should not be disclosed at all and issues of redaction will remain irrespective of whether the document is supplied under the summons route, or whether it is supplied through the consent route, so those issues are going to be live in either scenario.

Now, as far as the summonses are concerned, Madam, if I might just take you to the summons issued against the Department. This is in the bundle behind tab 1 and it is behind the letter dated 23 April from the Inquiry to Advocate Lacey and behind it you will see the wording of the summons and this was served on the Historic

Redress Scheme care of Beverley Lacey Advocates. I understand that it should properly have been issued against the Department, although as I understand the position as at today no issue is made in relation to that.

The wording of the summonses is to provide:

"... all and any documents, including copies of
documents or categories of documents that are or may be
relevant to the Inquiry's terms of reference which are
annexed to this summons that are in your possession,
custody or control. Such documents should be provided
to the Inquiry in accordance with the instructions set
out in the Inquiry's protocol and as published on its

website with the address given."

The wording of the summonses in relation to this and the SOJP are wide. That is because it is not known precisely what documents either organisation has and the onus is on the evidence provider to identify the documents that are relevant to your terms of reference. Put the other way, it is simply not for the Inquiry to second-guess, if you like, what information those institutions might hold.

Although it is not set out in the body of the summons, it is clear from what you said on 3 April and from the protocols that they were to be complied with

within 14 days and the protocols also provide for a procedure whereby interested parties can apply for an extension of time if they are unable to comply within that period.

As for the remainder of the summons you will see that it is set out that a summons can be challenged under regulation 4 of the 2007 regulations and likewise that it is an offence not to comply with the summons without reasonable excuse and those are matters set out in the summons and as at today neither the summons against the SOJP or the Department has been complied with and, as we understand it, no challenge has been made to the validity under regulation 4 and likewise no applications have been made for an extension of time, so that procedurally is where we are at in relation to that.

It should be said of course that we recognise that the task of providing this documentation is an onerous one and it will take some time, but against that the Inquiry will not be able to perform the work asked of it by the States of Jersey in investigating its terms of reference without reference to that documentation, so in the first instance it is a matter of prioritising the key information and ensuring that it is disclosed as soon as possible.

Abocate Lacey and Advocate Nacitsa, they will deal with to that in due course but if I can just summarise the position as follows from the correspondence - Madam, position as follows from the correspondence before He Edal R. No. a summary would be helpful. Ms JERRAM Ves. Shortly after the hearing on 3 April, by her letter of 11 April Advocate Lacey indicated that on phalf of the Pepartment she was taking issue with the summars approach and wished to adopt the approach for summars approach and wished to adopt the approach for summars approach and wished to adopt the approach for summars approach and wished to adopt the approach for summars approach and wished to adopt the approach for correspondence between Advocate Lacey and the Inquiry of correspondence between Advocate Lacey again disputed for correspondence between Advocate Lacey again disputed that the summons was the appropriate course and the think the Inquiry summons approached to the Redress Tile touch just turn you to that for a moment. It is the full that the summons was the appropriate course and the think the propriate and the release of their distriction in the absence of your consent the relevant Minister may see to nobect to their production depending on the nat	1	Madam Chairman, as far as the issues raised by	1	process.
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Τ.	THE CHAIR. Tes, I think we received that this morning.	_	I hope I don t overshiping things by saying that in
2	That was Friday's letter.	2	relation to the police the issues are effectively the
3	MS JERRAM: Yes. To cut matters short, if I may, just to	3	same.
4	take you to the final page "Way forward", I hope that in	4	So, Madam Chairman, that is the procedural position
5	setting out these paragraphs I distill the arguments	5	as at today and I hope that by explaining the protocols
6	raised by Advocate Lacey. She says this:	6	it is understood by the interested parties how you
7	"The Departments fully appreciate the Inquiry must	7	intend the dissemination, use of evidence to be managed
8	fearlessly discharge its terms of reference. Equally	8	by the Inquiry.
9	the victims are at the heart of the Inquiry and they are	9	Madam Chairman, is there anything else by way of
10	the focus of the Department's concerns. However, it is	10	background that I can help you with?
11	considered inappropriate for the Department simply to	11	THE CHAIR: Not as far as I'm concerned, Ms Jerram. I will
12	release information on the basis of a summons with the	12	just check with my Panel members. No, thank you very
13	high potential for further damage to those same	13	much.
14	individuals harmed in the past."	14	MS JERRAM: Would you like to hear from Advocate Lacey?
15	She then goes on to give a list of potential ways	15	THE CHAIR: Yes, I think the Panel particularly would be
16	forward. The first two are really practical matters and	16	assisted now by hearing from Advocate Lacey and then
17	in relation to that, Members of the Panel, I would	17	Advocate MacRae.
18	invite you not to descend into the detail of the	18	Submissions by ADVOCATE LACEY
19	practical considerations. That I anticipate can be	19	ADVOCATE LACEY: Thank you Madam Chairman.
20	dealt with in meetings with Advocate Lacey. It is the	20	I wrote the letter of 13 June, Madam, to bring all
21	issues of principle really that you need to decide.	21	issues together in one letter to summarise where we are
22	So the first issue is the consent versus summons	22	at. If I might talk first in relation to the Historic
23	route. The second issue is in relation to the approach	23	Redress Scheme. 132 claimants came forward seeking
24	to additional redactions, with particular reference to	24	financial compensation and they came forward in what was
25	the names of other children in care, family members and	25	assured to be a confidential arrangement. As part of
	29		31
1	so forth, and I hope I have dealt with that already.	1	the scheme processes individuals, or the majority of
2	Four is a separate issue arising out of the request	2	individuals were required to undergo psychiatric
3	to provide details of specific offences for which	3	assessment both in terms of the reliability of their
4	individuals were prosecuted and in my submission	4	historic stories told, but also relating to the damage
5	the Inquiry is not in a position to do that at this	5	suffered and leading to long term (inaudible) from the
6	stage.	6	harm suffered. In addition claimants gave us complete
7	Then point 5 brings us back to the key issue, which	7	access to their medical records and Social Services
8	is whether notwithstanding the issue of a summons in	8	files. It is not just in relation to the applicants
9	respect of the Historic Abuse Scheme records, children's	9	themselves but also the families concerned.
10	service files, medical records and mental health service	10	So the Historic Abuse Redress Scheme lawyers hold
11	records the individuals' consent should be sought.	11	a huge amount of very very sensitive data concerning the
12	So those are the issues in relation to the	12	claimants. As part of the process we created what was
13	Department. As far as the SOJP is concerned, in broad	13	called a control sheet which brings together the summary
14	terms they share a number of the same concerns, falling	14	of the time in care, the background to why taken into
15	into these categories: the ability to challenge	15	care, the specific abuse alleged whilst in care, any
16	provisional redactions and the issue of the security of	16	cooperation across the files that we found in relation
17	the undertakings and concerns about onward transmission	17	to the allegations. We would then feed into that
18	of data from the database by interested parties.	18	control sheet information supplied to us in confidence
19	Madam Chairman, in that respect the Inquiry has	19	by the police based on their extensive witness
20	received correspondence from Carey Olsen on behalf of	20	statements towards corroborating or not corroborating
21	the police marked "Private and confidential" and they	21	the explanations given.
22	have been informed that all correspondence is liable to	22	Then we would also feed into that from relevant
23	be made public, so if I may as a matter of record invite	23	medical history together with the view of the forensic
24	Carey Olsen in future to write on an open basis so that	24	psychiatrist as to the reliability of the story which we
25	matters can be dealt with in a hearing such as this, but	25	have been given and the harm suffered.
	30		32

1	The control sheet is a privileged document and the	1	undermined and damaged if there is forced disclosure of
2	Minister has made it plain that she is more than happy	2	individuals' most private records.
3	to waive privilege over that very document in order to	3	In relation to the confidentiality undertaking that
4	potentially avoid the Inquiry team spending many many	4	interested parties are signing up to, the interested
5	months piecing the evidence together, but her underlying	5	parties that we are aware of at the moment are the
6	concern is ensuring the privacy of the claimants	6	States of Jersey Police and the Jersey Care Leavers
7	themselves who have been reassured throughout of	7	Association, those are two obviously the police is
8	confidentiality.	8	a very large body. The JCLA has to my understanding
9	132 claimants came forward to the scheme as I have	9	over 50 members and there is concern of the leakage of
10	said and a number of those made it plain they want	10	information through the interested party route. I am
11	nothing whatever to do with the Inquiry. As a result,	11	sure the Inquiry understands the huge sensitivity around
12	once we were told this Inquiry would be going down the	12	an individual, not just applying to the Scheme, but
13	summons route as opposed to a consent route the Minister	13	particularly the psychiatric evaluation by a forensic
14	was consulted as to the approach to be adopted and	14	psychiatrist. The experience itself must have been
15	I have to say the Minister was saddened to hear	15	pretty daunting for most of the victims, but then the
16	a summons route was being adopted given that it is our	16	thought and worry that the report itself will be
17	understanding that in relation to the Northern Ireland	17	disclosed up to this body, I know is causing a number of
18	Inquiry the consent route was adopted save that	18	the claimants serious concerns.
19	ultimately a summons was applied in respect of the	19	I mentioned the confidentiality undertaking because
20	Roman Catholic Church and the religious orders.	20	I am most unclear as to what the sanction will be for
21	A summons is not viewed by the Minister, Madam, as	21	breach of that undertaking. I can't see it specified
22	the appropriate mechanism by which to access someone's	22	under the Inquiry rules and once there is a leakage it
23	most private data and that was the background to the	23	is then too late to do anything about it.
24	letters being issued by my firm asking the individuals	24	So in relation to the consent route which I really
25	concerned whether they consented to the data being	25	really would urge upon this Inquiry to follow, it really
	33		35
1	released or not.	1	comes back to this, and that is that as a matter of
2	You will see from our letter of Friday that we have	2	fundamental law an individual is entitled to expect
3	had back so far 47 positive consents. We have	3	a private life. When the claimants came forward to the
4			
	potentially eight further consents, bringing it up to	4	scheme they had no inkling whatsoever that an Inquiry of
5	potentially eight further consents, bringing it up to 55, once we clarified what the tick boxes mean on the	4 5	scheme they had no inkling whatsoever that an Inquiry of this form might take place and that their private
5 6			•
	55, once we clarified what the tick boxes mean on the	5	this form might take place and that their private
6	55, once we clarified what the tick boxes mean on the form returned to us, but we do have eight specific	5 6	this form might take place and that their private documents might be subpoenaed to be produced. A number
6 7	55, once we clarified what the tick boxes mean on the form returned to us, but we do have eight specific objections to any of the individuals' records being	5 6 7	this form might take place and that their private documents might be subpoenaed to be produced. A number of them have received their financial compensation and
6 7 8	55, once we clarified what the tick boxes mean on the form returned to us, but we do have eight specific objections to any of the individuals' records being delivered up to the Inquiry.	5 6 7 8	this form might take place and that their private documents might be subpoenaed to be produced. A number of them have received their financial compensation and are desperate to put everything behind them and to move
6 7 8 9	55, once we clarified what the tick boxes mean on the form returned to us, but we do have eight specific objections to any of the individuals' records being delivered up to the Inquiry. We also know, Madam, that there are many other claimants who are prepared to consent. Those claimants are represented under the scheme by Mr Alan Collins,	5 6 7 8 9	this form might take place and that their private documents might be subpoenaed to be produced. A number of them have received their financial compensation and are desperate to put everything behind them and to move on and not have the thought of the Inquiry reviewing
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6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	55, once we clarified what the tick boxes mean on the form returned to us, but we do have eight specific objections to any of the individuals' records being delivered up to the Inquiry. We also know, Madam, that there are many other claimants who are prepared to consent. Those claimants are represented under the scheme by Mr Alan Collins, formally of the law firm Pannone, but it is our understanding that Mr Collins advised his own claimant clients not to return their forms until there was a clear understanding as to how those individuals' most private data might be dealt with by this Inquiry. So you have the confidence in the scheme, Madam, and the confidentiality on which it has been operated potentially being blown apart by the summons. In addition we note that a number of the current claimants under the scheme are in ongoing therapeutic relationships with the Department that I represent, the Health and Social Services Department, and there is very serious concern that the trust and confidence that has	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	this form might take place and that their private documents might be subpoenaed to be produced. A number of them have received their financial compensation and are desperate to put everything behind them and to move on and not have the thought of the Inquiry reviewing their records. So the question it seems to me comes down to how far it is necessary for this Inquiry to make the forced disclosure of very very private material. All the points, Madam Chairman, are laid out in our letter of 13 June. There is particular concern over the high level of vulnerability of many of these claimants and for that reason the Minister urges a most cautious approach and to continue pursuing for now the consent mechanism, but giving reassurances to claimants expressly as to how their data will be sensitively handled by this Inquiry. That's all I wish to say, Madam. THE CHAIR: Thank you for those submissions, Advocate Lacey. Advocate MacRae?
6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	55, once we clarified what the tick boxes mean on the form returned to us, but we do have eight specific objections to any of the individuals' records being delivered up to the Inquiry. We also know, Madam, that there are many other claimants who are prepared to consent. Those claimants are represented under the scheme by Mr Alan Collins, formally of the law firm Pannone, but it is our understanding that Mr Collins advised his own claimant clients not to return their forms until there was a clear understanding as to how those individuals' most private data might be dealt with by this Inquiry. So you have the confidence in the scheme, Madam, and the confidentiality on which it has been operated potentially being blown apart by the summons. In addition we note that a number of the current claimants under the scheme are in ongoing therapeutic relationships with the Department that I represent, the Health and Social Services Department, and there is very	5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	this form might take place and that their private documents might be subpoenaed to be produced. A number of them have received their financial compensation and are desperate to put everything behind them and to move on and not have the thought of the Inquiry reviewing their records. So the question it seems to me comes down to how far it is necessary for this Inquiry to make the forced disclosure of very very private material. All the points, Madam Chairman, are laid out in our letter of 13 June. There is particular concern over the high level of vulnerability of many of these claimants and for that reason the Minister urges a most cautious approach and to continue pursuing for now the consent mechanism, but giving reassurances to claimants expressly as to how their data will be sensitively handled by this Inquiry. That's all I wish to say, Madam. THE CHAIR: Thank you for those submissions, Advocate Lacey.

1	THE CHAIR: Would it help you to move forward? Whatever is	1	The States Police are concerned that owing to
2	more convenient to you.	2	Jersey's small size and the connected nature of this
3	Submissions by ADVOCATE MACRAE	3	island community, unacceptable details, if not obscured
4	ADVOCATE MACRAE: Madam, can I first say that the States of	4	by redaction, may give rise to identification of
5	Jersey Police are, as you would expect, wholly committed	5	individuals and thus cause those persons distress and
6	to assisting this Inquiry in any way that it can. It	6	other difficulties.
7	has demonstrated that throughout and has proved that	7	Now, the first concern was that those redactions
8	fact by already providing more than 2,500 pages of	8	proposed might be rejected by the Inquiry and we have
9	material. There are of course many more pages that can	9	now seen, Madam, for the first time a proposal to
10	be disclosed and are ready for disclosure. They have	10	address those concerns. We saw it, Madam, first in the
11	been considered, redacted to protect the identity of	11	bundle over the weekend in the letter to Lacey Advocates
12	complainants, witnesses and suspects who have not been	12	from Friday and the proposed solution was revealed to us
13	convicted. The States of Jersey Police stand ready to	13	for the first time in this document received of course
14	disclose this material too.	14	minutes before the Inquiry sat.
15	I would like to correct one or two suggestions made	15	THE CHAIR: Mr MacRae, you are referring to the preliminary
16	by my learned friend Ms Jerram in the course of her	16	hearing issues for determination?
17	submissions. Firstly, the States Police have never	17	ADVOCATE MACRAE: Yes, this document. Perhaps I can
18	challenged the summons route taken by the Inquiry in any	18	request, Madam, on the next occasion that there is
19	way, shape or form. And we are not in breach of the	19	a hearing we are given the agenda before we come to the
20	summons as we have made disclosure. But there are	20	hearing and are able to take instructions on the
21	impediments in the way of further disclosure which arise	21	proposal.
22	by virtue of certain parts of the protocols.	22	Plainly the proposal goes some ways to meeting our
23	In short, the States of Jersey Police does not wish	23	concerns. I have not of course had a chance to take
24	to take any steps which would either cause distress to	24	instructions on it, or consider it.
25	existing complainants, or prevent other complainants in	25	THE CHAIR: Mr MacRae, it is but a short amendment, do take
	37		39
1	relation to allegations of abuse coming forward in the	1	as long as you need to make a telephone call or if you
1 2	relation to allegations of abuse coming forward in the future and of course there are existing investigations	1 2	as long as you need to make a telephone call or if you want to do that now.
2	future and of course there are existing investigations		want to do that now.
	future and of course there are existing investigations today, as we speak, which the States Police would not	2	
2	future and of course there are existing investigations today, as we speak, which the States Police would not wish to be prejudiced in any way by steps that it might	2	want to do that now. ADVOCATE MACRAE: The observations I would merely make are
2 3 4	future and of course there are existing investigations today, as we speak, which the States Police would not wish to be prejudiced in any way by steps that it might take in relation to this Inquiry.	2 3 4	want to do that now. ADVOCATE MACRAE: The observations I would merely make are that the decision I will anticipate will be a reasoned
2 3 4 5	future and of course there are existing investigations today, as we speak, which the States Police would not wish to be prejudiced in any way by steps that it might take in relation to this Inquiry. I now want to explain what these three there are	2 3 4 5	want to do that now. ADVOCATE MACRAE: The observations I would merely make are that the decision I will anticipate will be a reasoned decision that is given to us and it will relate to specific documents as opposed to general classes and
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witnesses then one can see in those circumstances why

The concern that the States of Jersey Police have --

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_	The concern that the states of jersey I once have	_	withesses then one can see in those theumstances why
2	and Advocate Lacey has made the point about there being	2	particular documents might be released to interested
3	no sanction is that either persons currently	3	parties through the document management system, but the
4	accredited as interested parties, or persons in due	4	States of Jersey Police do not see and have not received
5	course may inadvertently or otherwise permit persons or	5	any satisfactory answer or indeed any answer to address
6	parties to access materials so it ultimately finds its	6	its concerns as to why such sensitive material should be
7	way into the public domain and the Panel should know	7	placed on the computer system in this way, particularly
8	from its knowledge now of this island that that sort of	8	bearing in mind that it will be heavily redacted.
9	thing has happened in relation to this sort of material	9	A similar point we have made and again there has
10	in the recent past on this island and our concern is	10	been no response, I regret to say, in relation to
11	that that risk cannot be eliminated entirely by the	11	paragraph 8 of the previous protocol, which is at
12	protocols as drawn.	12	divider 7, which provides:
13	I fully accept of course that category 2 material as	13	"Following the conclusion of the Inquiry's work all
14	referred to in the course of a witness giving evidence	14	category 1 and category 2 material will be transferred
15	will become category 1 material and thereafter be	15	to the States of Jersey archive in redacted form."
16	published as the way that's provided, of course I accept	16	Again we ask, and it appears to be a rhetorical
17	that, but the concern that we have is that, for example,	17	question because there has been no answer: why should
18	individual redacted witness statements will find their	18	all such material be transferred to the States' archive
19	way onto the document management system, thereafter	19	in redacted form? Why are such personal details of
20	interested parties and thereafter the third parties and	20	complaints, medical records, assessments of complainants
21	be uncontrolled and cause enormous distress to	21	and so on, and if transferred there to whom would be
22	individuals, and the justification for this access to	22	made available? The public at large? There has been no
23	interested parties we find in the protocol at divider 8	23	response to this question and in my submission one is
24	of your bundle, Madam, at paragraph 20.4. It is	24	warranted.
25	important in my submission to consider the purported	25	The public interest in highly personal material
	41		43
1	justification for this mass of highly confidential and	1	being left indefinitely in a public archive for
2	personal material being uploaded onto this document	2	an indefinite period of time is one which we submit is
3	management system.	3	not in the public interest and it troubles the States of
4	We see it, Madam, at paragraph 20.4:	4	Jersey Police.
5	"The purpose of such access is to enable an	5	Madam, the third and final concern about which I do
6	interested party and/or its relative lawyer"	6	not want to say a great deal, is of course further
7	20.4.1:	7	alleged victims of abuse, or mistreatment in children's
8	" to read the relevant evidence in advance of	8	homes and in foster care may come to light which are not
9	oral evidence and to present requests to Inquiry counsel	9	known to the States of Jersey Police in the course of
10	to consider for specific questions to be asked to	10	this Inquiry. In addition existing complainants who are
11	witnesses in accordance with the procedure set out in	11	known may make further or fresh allegations against
12	the Inquiry protocol oral hearings."	12	individuals about which they have made no complaints to
13	Now, I have indicated that in relation to material	13	date, or indeed further complaints against such
14	supplied thus far, for example reports into the States	14	individuals. Such allegations may be made to
15	of Jersey Police, general material in relation to	15	the Inquiry, or to the States Police, or to both. All
16	Operation Rectangle, of course there is no objection to	16	these things are not merely likely, but very likely
17	that being downloaded onto the document management	17	indeed and if these allegations are not treated
18	system. But bearing in mind the extent of the	18	sensitively and pursuant to some sort of agreement then
19	redactions that will be applied to this very personal	19	there is a risk that criminal investigations instigated
20	data, and the concern that I have explained to this	20	or to be instigated by the States of Jersey Police could
21	tribunal, I and my clients struggle to see why it is	21	be hampered and the prospect of obtaining further
22	thought necessary to make this sort of material	22	convictions diminished.
23	available to interested parties and/or their lawyers.	23	We have looked for guidance on an agreed protocol in
24	If, of course, in the course of the Inquiry counsel to	24	relation to these matters and having now accepted that
25	the Inquiry wishes to ask specific questions of	25	the protocols are wanting in at least one respect,
	42		44

1	I would invite the Inquiry to consider our proposals in	1	a psychiatric report immediately exposes that
2	this regard. For example, and it is only an example, it	2	individual, but that's to assume that the use made of
3	is suggested that the Inquiry should keep confidential	3	that evidence is somehow going to be dissipated. It
4	any details of ongoing criminal investigations provided	4	won't be, Madam, that is not the intention of these
5	to it by the States of Jersey Police. That's merely	5	protocols, nor of this Inquiry team.
6	a suggestion as to one of the agreed rules that we have	6	There is nothing in what we have heard from
7	suggested needs to be in place to protect the integrity	7	Advocate Lacey that changes the present position so far
8	of investigations that will arise as a consequence of	8	as the Minister is concerned. There is at present no
9	the good work done by this tribunal and the States of	9	legal basis put before the Panel, in our submission,
10	Jersey Police are determined to ensure that all	10	that justifies non-compliance by the Minister with the
11	investigations and prosecutions have the greatest chance	11	summons.
12	of success.	12	In effect you are faced today with a de facto
13	Madam, I don't propose to say any more about that,	13	refusal to comply with the summons and if you needed any
14	but that discrete issue, my third issue, need not hold	14	better evidence of that refusal, I would remind the
15	up the process of disclosure and does not in any way	15	Panel of the paragraphs that Ms Jerram took you to in
16	derogate from the firm intention of the States Police to	16	the letter dated 13 June from Advocate Lacey, the "way
17	disclose all relevant material that it has in order to	17	forward" paragraph that she showed you. If need be
18	assist this Inquiry and ensure it has all the material	18	I can take you to that again. It is page 11 of that
19	needed to perform its task.	19	letter.
20	Madam, those are my submissions.	20	We would caution the Panel against allowing what are
21	THE CHAIR: Mr MacRae, thank you.	21	on any view legitimate concerns regarding the complex
22	I don't think there are any other submissions from	22	practicalities involved in the provision of
23	interested parties. Can I call now on counsel to	23	documentation, of that we have no doubt, we have heard
24	respond.	24	it both from Advocate MacRae and we have heard it from
25	•	25	Advocate Lacey, but those concerns, certainly so far as
	45		47
1	Submissions by MR SADD	1	the Minister is concerned, are not concerns that meet
2	MR SADD: Madam, yes, thank you so much. If I may deal	2	the obligation to comply with the summons. Those
3	first with Advocate Lacey and I hope not facetiously	3	practicalities should not detract from the principle
4	I would want to bring the Panel back to the terms of	4	that you the Panel are here today to decide on and that
5	reference and the reason why we are here.	5	is: has the Minister complied with the summons?
6	It has never been an issue for the Panel, it is	6	There is clearly, as I say, an ongoing debate about
7	common ground with the Panel and Advocate Lacey and the	7	how to organise disclosure and it is an ongoing debate
8	Minister that this Inquiry is dealing with vulnerable	8	with which Lacey Advocates have engaged very
9	individuals and that acknowledgment is a thread that is	9	productively and helpfully but again that is an issue
10	sewn through the protocols. So we have been given	10	that is secondary to the provision of the documents.
11	an example by Advocate Lacey of her concern should	11	The documents are what the Inquiry needs. The documents
12	psychiatric evidence be put before the Inquiry and what	12	we know are available and how do we know that they are
13	should be done about that evidence.	13	available? Because, as you have heard described by
14	Two points we make about that, Madam Chairman. The	14	Advocate Lacey, the Historic Abuse Redress Scheme was
15	first is the extent to which psychiatric evidence is	15	served initially with a summons. That body as
16	relevant for the purposes of this Inquiry is limited,	16	identified isn't one that exists legally, but in fact
17	but where it is relevant is in gauging the vulnerability	17	the documents that that scheme hold are documents that
18	of the particular individual and whether the Inquiry	18	Advocate Lacey and her team have managed to compile by
19	should have concerns about that individual giving	19	reference back to the archive, by reference back to
20	evidence and what provision could be made, as provided	20	consent forms obtained to get medical records, to get
21	for under the protocols, what provision could be made	21	social service records. So in effect the very work that
22	for that individual if they do give evidence, so	22	perhaps the Inquiry might have envisaged having to do
23	protection is afforded a vulnerable witness and that	23	itself has been done by Advocate Lacey and her
24	protection is dependent on that witness' circumstances.	24	assistants.
25	So yes, ostensibly it appears as if access to	25	The reason why that is relevant is if there are
	46		48

1	48 consents, as we have heard, then that documentation,	1	in the present context, again as Advocate MacRae rightly
2	those files should be here tomorrow. There is no reason	2	identifies, there are limited interested parties. Three
3	to stop those files being provided, albeit they have	3	of the interested parties are Government Departments, so
4	been obtained going down the route of consent, which is	4	one would imagine that that risk is met immediately.
5	not a route, Madam, as you will have seen in the	5	As far as the fourth interested party, the JCLA, it
6	correspondence, that of course the Inquiry supports.	6	is right that there are two members who have agreed and,
7	But we have a fear as to why that documentation	7	although not necessary, have signed up to
8	hasn't been produced and that fear points to the very	8	confidentiality.
9	issue as to why consent is not going to work, which is	9	Madam, unsatisfactory though it may be to hear, it
10	that within the documents to which individuals have	10	is the nature of an Inquiry that those who are
11	provided their consent for release there will be other	11	interested parties be entitled to take part and that
12	individuals named whose consent has to be sought and so	12	they have a right and indeed an obligation once they
13	one can see that it is like piling Pelion on Ossa, it	13	become interested parties to engage wholly with
14	will go on and on and on, and there is this additional	14	the Inquiry process. If those risks exist, they will
15	concern which is that if one follows the consent route,	15	always be there, but those risks are met by the
16	at any stage that consent can be withdrawn and so that	16	responsibility that goes with the provision of
17	raises the spectre of enormous complications for	17	interested party status.
18	the Inquiry as it goes about its business.	18	What cannot happen, however, is that there be
19	So, Madam, what we say in response to	19	qualified provision of information whereby you make
20	Advocate Lacey's submissions and indeed her	20	a determination that one interested party should be
21	correspondence is there is no doubt about the issue of	21	allowed only certain access to information. That would
22	sensitivity. The protocols are drafted with that in	22	defeat the very process of that interested party being
23	mind. There is no doubt that the Inquiry is well aware	23	entitled to engage with this process and remember,
24	of those sensitivities and the span of those	24	Madam, to gain interested party status, to make that
25	sensitivities from childhood to adulthood. That is not	25	application to you, they will have had to have met
	49		51
1	in issue. What is needed are the documents for	1	a series of criteria and for you and your Panel members
1 2	in issue. What is needed are the documents for the Inquiry to be able to engage in the 15 terms of	1 2	a series of criteria and for you and your Panel members to have been satisfied that they have indeed done so, so
2	the Inquiry to be able to engage in the 15 terms of	2	to have been satisfied that they have indeed done so, so
2	the Inquiry to be able to engage in the 15 terms of reference that it has been required to do so by	2	to have been satisfied that they have indeed done so, so they have had to meet a threshold and once they have met
2 3 4	the Inquiry to be able to engage in the 15 terms of reference that it has been required to do so by the States.	2 3 4	to have been satisfied that they have indeed done so, so they have had to meet a threshold and once they have met that threshold then they are entitled to the same
2 3 4 5	the Inquiry to be able to engage in the 15 terms of reference that it has been required to do so by the States. Summarising the position, the Minister, however	2 3 4 5	to have been satisfied that they have indeed done so, so they have had to meet a threshold and once they have met that threshold then they are entitled to the same privileges and with privileges comes
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1	off by the terms of reference does require a very full	1	hour. I know also that one of our transcribers need
2	and complete investigation of a great many issues that	2	a break so this may be a convenient moment. We can make
3	are sensitive by their very nature and therefore	3	that a productive break in every sense. So we will rise
4	the Inquiry cannot be prevented for instance when one	4	now and I will come back with the determinations.
5	thinks immediately of term of reference 13, which	5	ADVOCATE MACRAE: Madam, could I say one thing. I didn't
6	requires you the Panel to look at decisions made to	6	address you on paragraph 5 of your agenda. I do
7	prosecute or not to prosecute and whether there is any	7	apologise, Madam. Opening statements?
8	suggestion that those decisions were not made properly,	8	THE CHAIR: Yes. Can I say, Mr MacRae, if it assists, I had
9	that opens a huge and very difficult area for different	9	rather assumed that parties may wish to make opening
10	parties, but it is an area that you have been asked to	10	statements and if that's the case you can advise us in
11	consider and you cannot consider that with one arm tied	11	due course. It was just a matter of courtesy that it
12	behind your back. Yes, the concerns raised by the	12	was on the agenda. There will be no objection.
13	States of Jersey Police are legitimate, but those	13	(3.30 pm)
14	concerns we say will always be met by a discourse about	14	(A short break)
15	the implementation of the protocols.	15	Decision by the Panel
16	In relation to and I hope again I have understood	16	(4.10 pm)
17	this correctly from Advocate MacRae new allegations	17	THE CHAIR: Public inquiries are by their nature rare
18	as they emerge, Madam, I would say this, I hope not too	18	events. We in this Public Inquiry recognise that there
19	harshly, but it is not for you, Madam, or your Panel	19	is a tension between, on the one hand, the Inquiry's
20	members, to highlight where potential allegations or	20	responsibility to discharge its obligations under the
21	potential offences arise. As an interested party no	21	terms of reference by conducting a thorough and fearless
22	doubt the SOJP will know because they will have advance	22	investigation in public of the facts and, on the other,
23	warning of the evidence that's going to be heard at any	23	the need to protect the sensitive nature of the material
24	particular time, that provides them with the opportunity	24	as well as those who provide that information by
25	to have someone here, for them to raise issues, but it	25	providing adequate safeguards.
	53		55
1	is certainly not the Panel's obligation or	1	We have no doubt whatsoever that Advocate Lacey's
2	responsibility to alert the States of Jersey Police to	2	client, as we have read and heard, has the interests of
3	up and coming and potential new allegations and	3	vulnerable witnesses at heart and so does this Public
4	problems, putting it in the most neutral way, that might	4	Inquiry. A balance has to be struck in resolving this
5	arise with those allegations coming forward.	5	tension. That balance in our view is achieved by
6	In relation I think, I hope, to the last point, it		
7		6	the Inquiry's protocols. The minister's concerns are
0	comes back to issues on redaction, but we have heard	6 7	the Inquiry's protocols. The minister's concerns are met by the protocols published on 3 April this year.
8	comes back to issues on redaction, but we have heard		met by the protocols published on 3 April this year.
	comes back to issues on redaction, but we have heard that there may be more substantial protocols that the	7 8	met by the protocols published on 3 April this year. The protocols provide the very safeguards that the
9	comes back to issues on redaction, but we have heard that there may be more substantial protocols that the States of Jersey Police might want to introduce. Madam,	7 8 9	met by the protocols published on 3 April this year. The protocols provide the very safeguards that the Minister presently considers can only be met by
9	comes back to issues on redaction, but we have heard that there may be more substantial protocols that the States of Jersey Police might want to introduce. Madam, we would countenance although one hasn't seen that	7 8 9 10	met by the protocols published on 3 April this year. The protocols provide the very safeguards that the Minister presently considers can only be met by following the process of consent. Such safeguards
9 10	comes back to issues on redaction, but we have heard that there may be more substantial protocols that the States of Jersey Police might want to introduce. Madam, we would countenance although one hasn't seen that yet in this forum, we would countenance very strongly	7 8 9 10 11	met by the protocols published on 3 April this year. The protocols provide the very safeguards that the Minister presently considers can only be met by following the process of consent. Such safeguards indeed appear to be recognised in, as I shall term it,
9 10 11 12	comes back to issues on redaction, but we have heard that there may be more substantial protocols that the States of Jersey Police might want to introduce. Madam, we would countenance although one hasn't seen that yet in this forum, we would countenance very strongly against a major overhaul of the protocols that go	7 8 9 10 11 12	met by the protocols published on 3 April this year. The protocols provide the very safeguards that the Minister presently considers can only be met by following the process of consent. Such safeguards indeed appear to be recognised in, as I shall term it, the consent letter sent by Advocate Lacey to the 132
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1	applications for interested party status is the	1	before we formally open the Inquiry and that opening, as
2	reliability of that party's agreement to	2	was termed by me when I addressed the first public
3	confidentiality. That is an issue that we the Inquiry	3	hearing on 3 April, phase 1 of the Inquiry, will begin
4	take very seriously and we will refuse interested party	4	on Tuesday, 22 July. As I explained on 3 April, we will
5	status if reliability is in question. Interested party	5	take evidence from those in phase 1 who have accounts of
6	status brings with it a heavy onus of responsibility and	6	abuse to give and from those who worked or were in
7	we keep that constantly under review.	7	contact with child care. Phase 1 will also hear from
8	Furthermore I make it clear that there is	8	those accused of abuse.
9	a responsibility on the interested parties'	9	We will begin phase 1 with expert evidence which
10	representative to ensure that those they represent do	10	will set the scene, set the context of that which will
11	understand and do comply with the confidentiality	11	follow by way of witnesses' evidence.
12	requirement set out in the protocols.	12	That, ladies and gentlemen, is all I say today. The
13	I turn then to the issues for determination today,	13	details of that timetable will be published in advance
14	the second public hearing.	14	of 22 July so they will all know the exact dates and
15	Firstly, in relation to the Health and Social	15	times of the witnesses to be called. Thank you.
16	Services Department, known as the Department, the Panel	16	(4.18 pm)
17	requires immediate compliance with the summons issued	17	(The Inquiry adjourned until 2 July 2014)
18	against the Department and we require the documents in	18	
19	the Historic Redress Scheme to be produced within	19	
20	seven days.	20	
21	Secondly, the Panel does approve the proposed	21	
22	additional wording to paragraph 24.3 of the Data	22	
23	Protection Freedom of Information and Redaction	23	
24	Protocol, namely the addition of the following text at	24	
25	the conclusion of that paragraph and I quote:	25	
	57		59
1	" and has given the evidence provider five days'	1	
2	notice of that decision so that it can be challenged by	2	INDEX
3	the evidence provider, either by way of application to	3	Submissions by MS JERRAM1
4	the Inquiry Panel or through due process and for	4	Submissions by ADVOCATE LACEY31
5	the Inquiry to be notified of such a challenge."	5	Submissions by ADVOCATE MACRAE37
6	Thirdly to be determined today, this: the Panel is	6	Submissions by MR SADD45
7	satisfied with the confidentiality undertakings in	7	Decision by the Panel55
8	relation to access to category 2 material on	8	
9	the Inquiry's documents database by interested parties.	9	
10	I turn now to other matters to be resolved today.	10	
11	We grant interested party status to the Attorney General	11	
12	now that it has been clarified that the application was	12	
13	made on behalf of the Office of the Attorney General.	13	
14	Next, as already indicated, we make it clear that if	- 4	
15	Next, as all eatly illuscated, we make it clear that if	14	
16	interested parties want to make opening statements at	14 15	
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17	interested parties want to make opening statements at	15	
	interested parties want to make opening statements at the opening of this Inquiry then they may do so.	15 16	
17	interested parties want to make opening statements at the opening of this Inquiry then they may do so. Before I turn to the question of timetable and the	15 16 17	
17 18	interested parties want to make opening statements at the opening of this Inquiry then they may do so. Before I turn to the question of timetable and the date for opening I say this, and again this has been	15 16 17 18	
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44:7

bring (2) 31:20 46:4

51:6

57:2

albeit (1) 49:3

alert (1) 54:2

52:15

56:18

42.23

50:22

apart (1) 34:19

43:16 46:25

58:3,12

42:19 54:15

applies (1) 2:22

24:2 40:16

25:18 33:22

area (2) 53:9.10

29:5

arisen (1) 2:7

57:1

alluded (1) 5:16

Α ability (3) 14:3 15:20 30:15 able (5) 13:3 24:20 28:12 39:20 50:2 absence (1) 27:19 abuse (16) 6:20 7:15 7:21 8:11 11:13,14 11:15.19 30:9 32:10.15 38:1 44:7 48:14 59:6.8 abused (3) 6:17 11:13 15:7 abusers (1) 6:17 accept (6) 20:13 27:23 40:10 41:13,16 52:24 accepted (3) 8:8 21:20 44.24 access (14) 16:22,25 17:8 18:21,23 19:1 32:7 33:22 41:6,22 42:5 46:25 51:21 58.8 accounts (1) 59:5 accredited (1) 41:4 accurate (1) 26:25 accused (3) 11:14,19 59:8 achieve (1) 28:10 achieved (1) 56:5 acknowledgment (1) 46:9 action (2) 6:18 8:12 acutely (1) 8:16 add (1) 5:4 adding (1) 14:9 addition (5) 3:3 32:6 34:20 44:10 57:24 additional (4) 28:25 29:24 49:14 57:22 address (5) 23:14 39:10 43:5 55:6 56:17 addressed (1) 59:2 addresses (2) 8:25 12:11 adequate (2) 6:13 55:25 adjourned (1) 59:17 adopt (1) 25:11 adopted (4) 21:17 33:14,16,18 adulthood (1) 49:25 advance (3) 42:8 53:22 59:13 advise (1) 55:10 advised (1) 34:13 Advocate (48) 1:17 7:9 22:24 25:2,2,9 25:14,16,17 26:6 28:23 29:6.20 31:14.16.17.18.19 36:23.24.25 37:3.4 39:17 40:3 41:2 46:3.7.11 47:7.16 47:24.25 48:14.18 48:23 49:20 50:13 51:1 52:8.17.23 53:17 55:5 56:1.12 60:4.5 advocated (1) 4:25 Advocates (5) 4:22.25 23:1 39:11 48:8 afforded (2) 46:23 52.7 afternoon (3) 1:3,14 58:19 agenda (3) 39:19 55:6 55:12

agreed (5) 13:15 38:18 44:23 45:6 agreement (2) 44:18 agreements (1) 18:17 agrees (2) 17:13.19 Alan (2) 3:3 34:11 allegations (9) 32:17 38:1 44:11,14,17 53:17.20 54:3.5 alleged (5) 6:17 7:21 11:13 32:15 44:7 allow (5) 4:19 5:7 10:20 14:22 40:24 allowed (3) 17:8 51:21 allowing (1) 47:20 alongside (1) 7:6 alternative (1) 21:22 amended (2) 52:18,19 amendment (4) 5:5 13:16 14:9 39:25 amount (3) 1:8 32:11 analysing (1) 52:13 and/or (3) 11:8 42:6 annexed (1) 23:10 answer (4) 43:5,5,17 anticipate (4) 19:25 20:15 29:19 40:4 apologise (1) 55:7 appear (5) 1:15 3:8 16:11 40:10 56:11 appeared (1) 21:19 appears (4) 1:18 16:2 appended (1) 26:3 applicants (4) 7:17 12:4 32:8 56:13 application (14) 2:19 2:20 3:18 4:5,7 5:17 12:1 13:18,22 14:14,17 51:25 applications (2) 24:14 applied (4) 12:4 33:19 apply (4) 13:25 20:6 applying (1) 35:12 appraised (1) 3:22 appreciate (1) 29:7 approach (8) 21:7 25:11.11.16 29:23 33:14 36:18 54:16 approached (1) 19:14 15:4 appropriate (8) 3:23 19:16,19,20 21:8,9 approve (1) 57:21 April (13) 1:5 9:8 19:22 21:19 22:23 23:24 25:8,9 56:7 56:18,20 59:3,4 archive (5) 7:23 43:15 43:18 44:1 48:19 areas (2) 9:20 26:21 arguments (2) 28:20

arising (1) 30:2 arm (1) 53:11 arrangement (1) 31:25 Article (1) 21:24 asked (7) 6:18,21 12:21 19:7 24:20 42:10 53:10 asking (1) 33:24 aspect (1) 8:22 assessment (1) 32:3 assessments (1) 43:20 assist (3) 9:16 45:18 56:20 assistants (1) 48:24 assisted (1) 31:16 assisting (3) 17:21,22 37.6 assists (1) 55:8 Association (1) 35:7 assume (1) 47:2 assumed (1) 55:9 assurances (1) 56:14 assured (1) 31:25 attend (1) 3:15 attention (1) 14:6 Attorney (7) 2:3,20 3:17,25 5:17 58:11 58:13 author (1) 13:13 authorities (1) 20:12 automatic (2) 19:4 50:25 automatically (1) 17.13 available (7) 3:9 38:23 40:21 42:23 43:22 48:12,13 avoid (2) 20:14 33:4 aware (4) 8:3 20:5 35:5 49:23 axiomatic (1) 19:4 В back (12) 1:25 15:23 19:18 30:7 34:3 36:1 46:4 48:19,19 53:12 54:7 55:4 background (4) 5:24

31:10 32:14 33:23 balance (2) 56:4,5 based (1) 32:19 basis (5) 4:10 29:12 30:24 47:9 58:23 bearing (2) 42:18 43:8 behalf (10) 1:18 3:4 4:5 6:2 9:4 20:20 21:8 25:10 30:20 58:13 benefit (1) 56:22 better (1) 47:14 Beverley (1) 23:1 beyond (1) 15:4 birth (3) 9:1 12:10 blacking (1) 9:21 blown (1) 34:19 bodies (2) 20:2,4 body (8) 7:24 10:11 17:12 18:15 23:23 35:8.17 48:15 bound (4) 7:23 17:14 22:10 28:6 boxes (1) 34:5 breach (3) 20:22 35:21 37:19 breaching (1) 22:5 break (3) 55:2,3,14 brief (1) 6:24 briefly (1) 4:14

bringing (1) 34:4 brings (5) 7:16 19:18 30:7 32:13 57:6 broad (2) 9:19 30:13 built (1) 15:17 bundle (5) 10:1 22:22 25:23 39:11 41:24 business (1) 49:18 call (3) 15:3 40:1 45:23 called (3) 15:24 32:13 59.15 capable (3) 9:3 10:19 28:1 capacity (3) 2:4,23,23 care (14) 1:4 6:8.10 8:6,9,9 23:1 29:25 32:14,15,15 35:6 44.8 59.7 carer (1) 7:11 Carey (2) 30:20,24 carry (1) 6:25 carrying (2) 6:1 7:1 case (3) 27:23 28:1 55:10 categories (5) 11:23 12:6 16:4 23:8 30:15 categorisation (2) 15:24 16:3 categorised (1) 16:1 category (11) 16:4,12 16:18 26:11 27:2 40:21 41:13.15 43:14,14 58:8 Catholic (1) 33:20 cause (3) 37:24 39:5 causing (1) 35:17 caution (1) 47:20 cautious (1) 36:17 central (3) 2:9 7:21 17:16 certain (6) 4:20 9:17 10:21 11:2 37:22 certainly (4) 40:10 47:25 54:1,25 CHAIR (20) 1:3 2:2 3:5 4:15 15:19 19:1 25:7 26:3 28:18 29:1 31:11.15 36:23 37:1 39:15 39:25 45:21 54:22 55:8,17 Chairman (20) 1:14 2:6 3:6 4:11 9:7 14:8 15:1 18:18 19:7.21 20:19 22:7 25:1 28:22 30:19 31:4,9,19 36:14 46:14 challenge (9) 5:7 14:4 14:19,22 15:17,21 24:12 30:15 58:5

challenged (4) 14:16

24:6 37:18 58:2

chance (3) 28:17

changes (1) 47:7

check (1) 31:12

child (2) 8:8 59:7

childhood (1) 49:25

33:25 39:1 47:8

children (2) 21:12

children's (5) 7:10

Chief (1) 1:19

29:25

39:23 45:11

15:7 21:12 30:9 48:1 56:21.22 concerning (1) 32:11 Church (1) 33:20 concerns (21) 6:19 circumstances (6) 8:8 8:23 9:7 10:17 10:21 12:11 27:8 43:1 46:24 claimant (1) 34:13 claimants (15) 25:20 25:23 26:1 31:23 32:6.12 33:6.9 34:10.10.20 35:18 36:3.16.19 claimed (1) 11:12 clarification (1) 40:7 clarified (3) 4:7 34:5 58:12 clarifies (2) 3:17.19 clarify (2) 15:25 16:23 class (1) 40:16 classes (2) 11:17 40:6 classified (1) 9:23 clean (1) 13:5 clear (7) 23:24 28:5 34:15 40:9,13 57:8 58.14 clearly (2) 48:6 50:7 client (1) 56:2 clients (3) 34:14 42:21 52:24 collateral (2) 9:2 15:3 Collins (5) 3:3,8,15 34:11.13 come (4) 5:3 39:19 44:8 55:4 comes (5) 36:1,11 52.5 10 54.7 coming (3) 38:1 54:3,5 committed (1) 37:5 Committee (1) 3:13 Committees (1) 21:25 common (1) 46:7 community (2) 8:24 39:3 compel (1) 20:10 compelling (1) 21:22 compensation (2) 31:24 36:7 competing (1) 54:14 compile (1) 48:18 complainant (1) 38:24 complainants (6) 37:12,25,25 38:14 43:20 44:10 complaints (4) 6:19 43:20 44:12,13 complete (3) 26:8 32:6 53:2 complex (1) 47:21 compliance (4) 4:18 4:24 12:15 57:17 complications (1) 49:17 complied (3) 23:25 24:11 48:5 complies (1) 19:5 comply (7) 24:3,8 28:6 47:13 48:2 50:8 57:11 computer (1) 43:7 concern (21) 7:14.21 9:4.5 16:18 20:19 20:20 33:6 34:24 35:9 36:15 39:7 40:17.17 41:1.10 41:17 42:20 44:5 46:11 49:15 concerned (13) 9:12 16:23 21:11 22:20 30:13 31:11 32:9

15:18 29:10 30:14 30:17 35:18 39:10 39:23 43:6 46:19 47:21.25 48:1 50:7 50:11 53:12.14 56:6 conclusion (2) 43:13 57:25 conduct (2) 6:14.21 conducting (1) 55:21 confidence (3) 32:18 34:17.24 confidential (5) 17:18 30.21 31.25 42.1 45:3 confidentiality (19) 5:11,14 17:2,14,20 18.11 17 19.5 33.8 34:18 35:3.19 50:12.24 51:8 52:14 57:3.11 58:7 configured (1) 52:16 confirming (1) 26:10 confirms (1) 3:8 confused (1) 22:9 connected (1) 39:2 conscious (2) 8:16,17 consciously (1) 56:19 consent (31) 4:24 19:19 20:24,25 21:13,15,20 22:18 25:12.20 26:10.13 27:19 28:7 29:22 30:11 33:13,18 34:10 35:24 36:18 48:20 49:4,9,11,12 49:15,16 56:10,12 56:17 consented (1) 33:25 consents (4) 4:19 34:3 34:4 49:1 consequence (1) 45:8 consider (17) 6:8,14 6:18,21 7:2,25 13:1 13:8 19:7 39:24 41:25 42:10 45:1 53:11,11 54:24 58:25 considerable (1) 1:8 consideration (1) 7:13 considerations (2) 20:6 29:19 considered (2) 29:11 37:11 considering (1) 56:25 considers (3) 11:23 27:16 56:9 consists (1) 38:12 constable (1) 15:10 constantly (1) 57:7 consulted (1) 33:14 consuming (1) 21:7 contact (1) 59:7 contain (2) 8:4 26:21 contained (1) 8:1 content (1) 4:19 context (2) 51:1 59:10 continue (2) 18:12 36:18 continues (1) 50:8 control (4) 23:11 32:13.18 33:1 convenient (2) 37:2 55:2 convicted (1) 37:13 conviction (1) 11:20

convictions (2) 11:15 44:22 cooperate (1) 20:3 cooperation (2) 20:7 32:16 copies (2) 23:7 26:19 copy (2) 13:5 26:2 correct (1) 37:15 correctly (1) 53:17 correspondence (13) 3:1 4:21 7:9 14:2 14:25 25:4.14 28:15 30:20.22 49.6 21 58.21 corroborating (2) 32:20.20 counsel (4) 1:10 42:9 42.24 45.23 countenance (3) 54:10,11,17 course (28) 2:8 4:8 5:10 15 7:1 11:16 13:3 24:17 25:3.18 27:11 37:9.16 38:2 39:13,23 41:5,13 41:14,16 42:16,24 42:24 44:6,9 49:6 54:25 55:11 courtesy (1) 55:11 co-counsel (1) 1:15 created (1) 32:12 criminal (4) 11:15,19 44:19 45:4 criteria (1) 52:1 criticism (1) 52:22 crucial (2) 7:16,25 crucially (2) 7:12 13:9 Culture (1) 1:20 current (1) 34:20 currently (1) 41:3 custody (1) 23:11 cut (1) 29:3 D

damage (2) 29:13 32:4 damaged (1) 35:1 data (17) 5:5 8:5 10:3 10:6 20:6,23 22:3,5 25:21 30:18 32:11 33:23.25 34:16 36:20 42:20 57:22 database (12) 12:25 14:23 16:16,22 17:1.4.9 18:21.23 30:18 50:20 58:9 date (7) 1:11 6:9 14:24 15:4 44:13 56:15 58:18 dated (4) 3:17 22:23 25:23 47:16 dates (3) 8:25 12:10 59:14 daunting (1) 35:15 day (1) 40:15 days (5) 14:15 20:18 24:1 57:20 58:1 de (2) 21:6 47:12 deal (7) 2:7 9:9 10:6 25:2 44:6 46:2 58:22 dealing (3) 40:11 46:8 54:14 deals (4) 17:7,24 18:6 19:11 dealt (5) 9:19 29:20 30:1.25 34:16 debate (2) 48:6.7 decide (3) 1:23 29:21 48:4 decision (6) 14:15

40:4,5 55:15 58:2 60:7 decisions (2) 53:6.8 defeat (1) 51:22 delay (2) 20:14.16 delivered (1) 34:8 demand (1) 27:18 demonstrated (1) 37:7 Department (32) 1:19 1:20.21 2:12.12.24 3:1,20,22 4:4,6,17 4:19 5:12 6:15 18-23 19-13 22-22 23:3 24:11 25:10 27:8.12 28:5 29:11 30.13 34.22 23 57:16 16 18 58:22 Departments (4) 1:18 1:22 29:7 51:3 Department's (1) 29.10 dependent (1) 46:24 depending (2) 27:21 40.22 derogate (1) 45:16 descend (1) 29:18 described (3) 22:12 26:15 48:13 description (1) 26:25 designated (1) 17:12 designation (1) 17:13 designed (1) 15:13 desperate (1) 36:8 despite (1) 56:14 destroy (1) 18:10 detail (2) 28:14 29:18 detailed (1) 28:15 details (9) 8:11 11:11 11:17 15:9 30:3 39:3 43:19 45:4 59:13 determination (9) 2:10 4:8,13 5:4,8 14:4 39:16 51:20 57:13 determinations (1) determined (2) 45:10 detract (1) 48:3 different (5) 7:3 16:12 53:9 54:14.16 difficult (1) 53:9 difficulties (3) 25:16 38:7 39:6 difficulty (1) 14:20 diminished (1) 44:22 direction (1) 18:8 discharge (2) 29:8 55:20 disciplinary (1) 7:5 disclose (5) 18:2 27:25 37:14 38:11 45:17 disclosed (9) 11:7,24 12:2 22:15 24:24 26:12,17 35:17 37:10 disclosing (2) 20:21 27:9 disclosure (18) 1:11 2:11,15 3:13 4:20 4:21 11:1 17:24 19:22 27:15.18 35:1 36:13 37:10 37:20.21 45:15 48:7 discourse (1) 53:14 discrete (1) 45:14 disposal (1) 21:22

disproportionate (1) 56:18 disputed (1) 25:17 dissatisfied (1) 13:24 disseminated (2) 8:20 16:17 dissemination (4) 17:25 31:7 40:23 50:18 disservice (1) 52:9 dissipated (1) 47:3 distill (1) 29:5 distills (1) 28:23 distress (3) 37:24 39:5 41:21 divider (2) 41:23 43.12 document (23) 4:11 11:18 13:6,11 15:23 18:4 21:1 22:14.14.16 26:4 27:21 28:25 33:1 3 38:22 39:13.17 40:20 41:19 42:2 42:17 43:3 documentary (2) 19:14,24 documentation (24) 4:20 7:2,4 8:2,2,4 9:12 10:8 18:9 19:17 20:4,21 21:4 21:10 22:5 24:18 24:22 28:9,11 47:23 49:1,7 56:16 56.23 documents (55) 1:12 2:13,17 7:7,13 8:7 8:11 9:1,21,23 10:9 10:20 12:18.21.22 15:25 16:1 17:9 19:22,25 20:7,8,9 20:15,16 21:23 22:10,11 23:7,8,8 23:11,17,19 25:12 26:11,17 27:7,9,25 36:6 38:13 40:6,14 40:16 43:2 48:10 48:11,11,17,17 49:10 50:1 57:18 58:9 doing (1) 1:7 domain (1) 41:7 doubt (6) 20:1 47:23 49:21,23 53:22 doubts (2) 50:15,16 downloaded (1) 42:17 drafted (1) 49:22 drawn (3) 9:9 14:5 41:12 due (10) 4:8 5:10,15 14:18 25:3 40:8 41:4 54:25 55:11 58:4 duties (1) 22:6 duty (1) 22:10 Ε earlier (2) 15:2 22:12 Education (1) 1:19 effect (3) 3:21 47:12 48:21 effectively (2) 14:3 31:2 efforts (1) 10:13

eliminated (1) 41:11 emerge (1) 53:18 emphasise (1) 40:12 enable (2) 27:5 42:5 encourage (1) 54:18 engage (3) 50:2 51:13 51:23 engaged (1) 48:8 enormous (2) 41:21 49:17 ensure (9) 8:19 9:12 9:13 12:15 26:22 38:21 45:10,18 57:10 ensuring (2) 24:24 33:6 entirely (3) 22:7 41:11 52.21 entirety (1) 14:11 entitled (6) 13:14 36:2 51:11,23 52:4,6 entity (1) 3:24 envisaged (2) 6:2 48:22 Equally (1) 29:8 especially (1) 5:24 essence (1) 2:21 evaluation (1) 35:13 event (1) 13:4 events (1) 55:18 evidence (51) 6:1,16 7:19.24.25 9:10 10:11,12,17 12:16 12:20 13:5,13,15 13:17,23 14:3,13 14:15.16 15:14.15 16:5,8,12,18 19:11 19:14,24 22:4,9 23:18 31:7 33:5 41:14 42:8,9 46:12 46:13,15,20,22 47:3,14 53:23 54:15 58:1,3 59:5,9 59:11 exact (1) 59:14 Exactly (3) 15:22 19:2 examine (1) 6:11 example (10) 8:7 15:6 18:22 21:5,5 41:17 42:14 45:2,2 46:11 examples (2) 52:11,12 exceptional (1) 27:7 excuse (1) 24:9 exemption (1) 22:2 exist (2) 50:23 51:14 existing (3) 37:25 38:2 44:10 exists (1) 48:16 expect (4) 3:12 20:17 36:2 37:5 expects (1) 10:9 experience (1) 35:14 expert (1) 59:9 explain (2) 9:18 38:6 explained (3) 1:6 42:20 59:4 explaining (2) 8:7 31:5 explanation (1) 5:10 explanations (1) 32:21 explicit (1) 14:7 explicitly (1) 50:8 exposes (1) 47:1 expressed (1) 9:4 expressions (1) 56:14 expressly (2) 5:7 36:20 extend (1) 12:8 extension (2) 24:3.14 extensive (1) 32:19

extent (8) 4:7 13:24 19:24 22:13 40:22 E faced (1) 47:12 facetiously (1) 46:3 facilitate (1) 56:21 facility (1) 5:7 fact (3) 8:17 37:8 48:16 facto (1) 47:12 factor (1) 56:25 facts (2) 27:5 55:22 fairly (1) 50:16 fall (2) 12:6 22:11 falling (2) 11:22 30:14 families (1) 32:9 family (2) 8:7 29:25 far (13) 9:11 16:22 21:10 22:20 25:1 30:13 31:11 34:3 36.11 42.14 47.7 47:25 51:5 fear (2) 49:7,8 fearless (1) 55:21 fearlessly (1) 29:8 feed (2) 32:17,22 files (9) 7:10,11,20 49:3 56:16 final (2) 29:4 44:5 finally (2) 3:11 5:18 financial (2) 31:24 36:7 find (2) 41:18,23 finds (1) 41:6 finished (1) 18:12 firm (3) 33:24 34:12 45:16 first (16) 1:6 2:10 4:16 9:20 24:23 29:16 29:22 31:22 37:4 39:7,9,10,13 46:3 46:15 59:2 firstly (5) 9:25 13:3 37:17 38:9 57:15 five (3) 14:15 40:15 flawed (1) 28:8 focus (2) 10:2 29:10 follow (3) 12:17 35:25 59:11 followed (1) 25:13 following (8) 11:6 12:17 16:4 17:14 57:24 follows (5) 12:20 13:20 25:4 27:3 49:15 forced (2) 35:1 36:12 forensic (2) 32:23 35:13 foreshadowed (1) 56:17 form (8) 13:14 26:3,9 34:6 36:5 37:19 43:15,19 formally (3) 27:18 34:12 59:1 forms (3) 18:15 34:14 48:20 forth (2) 7:6 30:1 fortunately (1) 21:21 forum (1) 54:11 forward (11) 29:4.16

42:18 46:15 52:11 30:10 32:8.16 49:2 19:23 43:13 56:10 great (3) 38:12 44:6 greatest (1) 45:11 31:23.24 33:9 36:3 37:1 38:1 47:17 ground (1) 46:7 52:23 54:5 guidance (1) 44:23

foster (3) 6:10 7:11 44:8 found (1) 32:16 Four (1) 30:2 fourth (2) 5:16 51:5 Freedom (3) 5:6 10:3 28.25 57:23 fresh (1) 44:11 Friday (3) 3:1 34:2 39:12 Friday's (1) 29:2 friend (1) 37:16 friends (1) 54:20 full (5) 3:13 10:24 28:11 38:20 53:1 fullest (1) 27:4 fully (3) 28:13 29:7 41.13 fundamental (1) 36:2 fundamentally (1) 56:21 further (8) 5:10 29:13 34:4 37:21 44:6,11 44:13,21 Furthermore (2) 28:10 57:8 future (2) 30:24 38:2 G gain (1) 51:24 gallery (1) 38:17 42:12 Garenne (1) 21:6 gathers (1) 10:7 56:3 gauging (1) 46:17 general (17) 2:3,20 3:25,25 5:17 10:23 11:3,4,5 12:16 17:5 40:6,16,17 42:15 58:11,13 generally (1) 20:13 General's (1) 3:17 generic (2) 7:3,6 gentlemen (2) 1:3 59:12 getting (2) 21:13,15 give (8) 5:9 8:11 14:7 15:8 29:15 39:4 46:22 59:6 given (23) 3:24,24 4:4 9:23 10:11 14:14 16:5 17:1 18:19,21 18:23 21:2 23:14 27:22 28:11 32:21 32:25 33:16 39:19 40:5 46:10 52:11 giving (4) 16:8 36:19 41:14 46:19 21:12 go (5) 1:7 15:8 49:14 50:6 54:12 goes (8) 4:2 5:2,11 27:13 29:15 39:22 49:18 51:16 going (12) 1:10 11:21 15:3 16:1,21 22:18 33:12 47:3 49:4,9 54:19 53:23 54:24 good (3) 1:3,14 45:9 Gordon (2) 3:4,7 governance (1) 6:13 governed (2) 6:12 7:5 19:18 Government (1) 51:3 grant (2) 4:9 58:11 53:9 granted (2) 16:25 50:18

53:2

н half (1) 54-25 hampered (1) 44:21 hand (1) 55:19 handed (4) 3:2,4 4:12 handled (1) 36:21 happen (1) 51:18 happened (1) 41:9 happens (1) 50:10 happy (1) 33:2 harm (2) 32:6,25 harmed (1) 29:14 harshly (1) 53:19 Haut (1) 21:6 health (8) 1:20 2:11 6:14 18:22 30:10 34:23,25 57:15 hear (7) 5:21 6:16 19:9 31:14 33:15 51:9 59:7 heard (9) 47:6,23,24 48:13 49:1 50:25 53:23 54:7 56:2 hearing (13) 1:6 2:6 4:12 10:12 25:8 30:25 31:16 39:16 39:19,20 57:14 58:25 59:3 hearings (3) 2:9 16:6 heart (3) 29:9 34:25 heavily (1) 43:8 heavy (1) 57:6 held (3) 7:14,19 8:18 help (4) 20:15 31:10 37:1 54:21 helpful (3) 5:23 10:23 helpfully (1) 48:9 high (2) 29:13 36:15 highlight (3) 12:23 26:16 53:20 highlighted (3) 13:4 26:21 28:2 highlighter (1) 38:18 highly (2) 42:1 43:25 historic (10) 7:15 22:25 30:9 31:22 32:4,10 48:14 56:13,15 57:19 history (1) 32:23 hold (4) 23:22 32:10 45:14 48:17 holds (1) 8:18 home (3) 12:10 15:7 homes (5) 6:9,10,12 7:4 44:8 honorary (1) 15:9 hope (14) 1:25 4:12 9:16 14:20 29:4 30:1 31:1.5 46:3 52:9 53:16.18 54:6 hoped (2) 14:23 15:17 hour (1) 55:1 housekeeping (1) 5:18 HSSD (3) 4:16 6:22 huge (3) 32:11 35:11 identification (2) 9:14 39.4 identified (9) 9.3 10:19 11:12 12:2

14:21 15:5.11 26:9 48:16 identifies (1) 51:2 identify (7) 10:17.18 15:14.15 23:18 26:18 38:24 identifying (4) 11:11 11:17 28:1 52:14 identities (2) 12:5 26:23 identity (3) 11:2,23 37:11 imagine (2) 20:25 51:4 immaterial (1) 16:19 immediate (3) 4:17 7:14 57:17 immediately (3) 47:1 51.4 53.5 immense (1) 6:25 **Immunities (1)** 21:25 impediments (1) 37.21 implementation (1) 53:15 implemented (1) 11:3 important (3) 27:4 41:25 56:25 Importantly (2) 17:20 18:11 inaction (1) 8:12 inadequate (1) 40:15 inadvertent (2) 9:14 50:17 inadvertently (1) 41:5 inappropriate (1) 29.11 inaudible (1) 32:5 include (4) 7:3 10:9 12:10 16:7 includes (1) 17:11 including (1) 23:7 indefinite (1) 44:2 indefinitely (1) 44:1 Independent (1) 1:4 INDEX (1) 60:2 indicated (7) 19:12 21:19,21 25:9,19 42:13 58:14 indicates (1) 3:10 indication (1) 2:22 individual (15) 10:10 11:18 13:12 18:15 21:2.14 25:6 35:12 36:2 41:18 46:18 46:19,22 47:2 58:22 individuals (28) 7:8 8:6 10:17 11:12,14 11:22 12:8 18:24 21:3,8 29:14 30:4 30:11 32:1,2 33:24 34:7,15 35:2 39:5 40:24 41:22 44:12 44:14 46:9 49:10 49:12 52:14 information (40) 1:9 5:6 8:15.17 9:2.11 9:22 10:4,18 11:2,4 11:6 12:7,12 14:22 15:3.3.12 16:3.5.10 16:10.13.15.19 23:21 24:24 26:21 28:1 29:12 32:18 35:10 50:14.18.19 50:23 51:19.21 55:24 57:23 informed (1) 30:22 initially (1) 48:15 inkling (1) 36:4 inquiries (1) 55:17

eight (2) 34:4.6

58:3

either (9) 14:17 15:19

22:19 23:17 28:21

37:24 41:3 54:19

Inquiry (143) 1:5,6,10 1:16 3:14 5:20 6:2 6:25 7:1.14.22 8:13 8:16.21.22 9:8.23 10:6.9.10.13.20.22 11:3,5,7,23 12:5,22 12:25 13:1.10.17 13:22.25 14:13.17 14:18 15:21 16:4 17:18.22.23 18:1.5 18:7.9.9 19:9.17.21 20:9,12 21:9,17,25 22:23 23:12.20 24.20 25.14 15 26:2.12.17.20.20 27:4,5,9,16,18,22 27:23 28:2.3.11.14 29.7 9 30.5 19 31.8 33:4,11,12,18 34:8 34:16 35:11,22,25 36:4.9.12.21 37:6 37:18 38:5.16.19 38:20 39:8.14 40:19 42:9.12.24 42:25 44:10.15 45:1,3,18 46:8,12 46:16,18 47:5 48:11,22 49:6,18 49:23 50:2 51:10 51:14 53:4 54:17 55:18 56:4,14,19 56:22 57:3 58:4.5 58:16,20,21 59:1,3 59:17 Inquiry's (22) 2:8,14 8:1 11:8 12:13.15 16:9,11,14,20 17:15 18:10,12 20:14 23:9,13 38:18 40:20 43:13 55:19 56:6 58:9 insofar (1) 38:8 instance (3) 24:23 50:17 53:4 instigated (2) 44:19 44:20 institution (3) 10:10 17:11 18:15 institutions (1) 23:22 instructions (3) 23:12 39:20,24 integrity (1) 45:7 intend (2) 3:8 31:7 intended (1) 1:7 intention (3) 3:20 45:16 47:4 interest (3) 18:13 43:25 44:3 interested (71) 2:21 3:19,21,23 4:3,9 5:9,17,19,22 9:17 11:8,25 13:11,12 13:23 14:21 16:16 16:24,25 17:1,8,12 17:18,19,22 18:1,3 18:8,14,16,20 19:5 19:10 20:21,22 24:2 30:18 31:6 35:4,4,10 38:23 40:22 41:4.20.23 42:6.23 43:2 45:23 50:19 51:2,3,5,11 51:13,17,20,22,24 53:21 54:16 56:24 57:1.4.5.9 58:9.11 58:15 interests (1) 56:2 introduce (1) 54:9 investigate (2) 6:6 28:13

investigating (1) 24:21 investigation (4) 7:20 52:25 53:2 55:22 investigations (6) 38:2 38:15 44:19 45:4.8 45:11 investigative (1) 38:13 invite (4) 14:8 29:18 30:23 45:1 involved (2) 20:2 47:22 IP (1) 52:7 Ireland (1) 33:17 irrelevant (1) 16:19 irrespective (1) 22:16 island (5) 6:9 8:24 39.3 41.8 10 issue (41) 2:19 4:16 4:22 5:2,2,3,11,16 10:14 14:2 15:1.2 15:24 17:24 19:15 19.22 22.7 8 23.4 25:10 29:22.23 30:2,7,8,16 38:9 40:12 45:14.14 46:6 48:9 49:9.21 50:1,14 52:8,10 54:13.13 57:3 issued (9) 4:18 10:22 20:11 22:21 23:2 27:11 33:24 56:20 57:17 issues (24) 2:7,9 4:13 5:12,21 6:6 14:10 14:24 22:13,15,18

25:1 27:10 28:14 28:23 29:21 30:12 31:2,21 39:16 53:2 53:25 54:7 57:13 JCLA (4) 3:4,10 35:8 Jerram (20) 1:13,14 1:15 2:3 3:6 4:16 15:19,22 19:2 25:8 26:5 28:18,20 29:3 31:11,14 37:16 47:15 50:25 60:3 Jersey (34) 1:4,18,24 2:16 3:12 6:5 7:19 7:23 8:6,23 15:8 19:13 21:24 22:1 24:21 27:8 35:6.6 37:5,13,23 38:10 41:1 42:15 43:4,15 44:4,9,20 45:5,10 53:13 54:2.9 Jersey's (2) 20:1 39:2 judgment (1) 5:1 judiciary (1) 6:23 July (4) 58:25 59:4,14 59:17 June (8) 1:1 3:7,17,18 28:24 31:20 36:15 47:16 justification (2) 41:22 42.1 justifies (1) 47:10 Κ keen (1) 20:14 keep (3) 13:5 45:3

57:7

key (5) 4:22 9:20 10:2

know (16) 1:15 6:3.16

9:20 18:18 28:16

24:24 30:7

kindly (1) 26:2

34:9 35:17 41:7 48:12,12 52:21,22 53:22 55:1 59:14 knowledge (1) 41:8 known (5) 23:16 26:24 44:9,11 57:16 knows (1) 38:16 la (1) 21:6 Lacey (34) 1:17 4:22 4:25 7:9 22:24 23:1 25:2.9.14.16.17 26.6 28.23 29.6 20 31:14.16.18.19 36:23 39:11 41:2 46:3,7,11 47:7,16 47:25 48:8 14 18 48:23 56:12 60:4 Lacey's (3) 28:15 49:20 56:1 ladies (2) 1:3 59:12 laid (1) 36:14 large (3) 7:7 35:8 43:22 late (1) 35:23 latest (1) 28:22 launch (1) 9:8 launched (1) 19:21 Laura (1) 2:4 law (5) 2:24 3:20 4:6 34:12 36:2 lawyer (1) 42:6 lawyers (3) 32:10 38:19 42:23 leading (1) 32:5 leakage (2) 35:9,22 learned (2) 37:16 54:20 Leavers (1) 35:6 left (1) 44:1 legal (4) 8:13 18:3 27:6 47:9 legally (1) 48:16 legislation (3) 7:4 20:24 22:4 legitimate (4) 47:21 50:11 52:21 53:13 letter (23) 3:2.3.6.7.16 58:19 30:22

22:23 25:9,22,25 26:1 27:14 28:16 28:22,24 29:2 31:20.21 34:2 36:14 39:11 47:16 47:19 56:12 letters (3) 25:6 33:24 level (1) 36:16 liable (3) 15:15 20:22 licences (1) 18:20 life (1) 36:3 light (1) 44:8 likewise (3) 7:19 24:7 24:13 limited (6) 2:3 18:20 18:24 38:23 46:16 51:2 list (4) 4:13 14:10 21:5 29:15 live (1) 22:19 long (2) 32:5 40:1 look (2) 50:19 53:6 looked (2) 8:10 44:23 м MacRae (21) 1:25 25:2 31:17 36:24

35:19

merely (4) 40:3,7

44:16 45:5

36:25 37:3,4 39:15 39:17,25 40:3 45:21 47:24 51:1 52:8.17.23 53:17 55:5.8 60:5 Madam (58) 1:14,17 2:6 3:6 4:11 9:7 14:8 15:1.23 17:4 18:18 19:7.21 20:19 22:7.20 25:1 25:4.22.25 27:11 28:22 30:19 31:4,9 31:19.20 33:21 34.9 17 36.14 22 37:4 39:9.10.18 40:10.17 41:24 42:4 44:5 45:13 20 46.2 14 47.4 49.5 49:19 51:9.24 52:8 52:20 53:18,19 54:9.19 55:5.7 main (1) 19:15 major (1) 54:12 majority (1) 32:1 managed (3) 6:12 31:7 48:18 management (7) 9:10 38:22 40:20 41:19 42:3.17 43:3 mark (1) 26:16 marked (2) 26:13 30:21 mass (1) 42:1 material (33) 2:11 7:7 9:19 11:7 16:13 17:3,17,21 18:4 36:13 37:9,14 38:11,12 40:18,19 40:21 41:9,13,15 42:2,13,15,22 43:6 43:14,18,25 45:17 45:18 52:12 55:23 58:8 materials (2) 40:23 41:6 matter (9) 3:11 4:8 5:18 11:16 18:18 24:23 30:23 36:1 55:11 matters (10) 1:23 3:22 5:22 24:9 29:3,16 30:25 44:24 58:10 58:25 Mcrae's (1) 50:13 mean (4) 10:19 22:14 34:5 40:8 meaning (2) 20:10 22:4 means (3) 9:21 11:5 21:22 mechanism (4) 14:6 19:16 33:22 36:19 medical (5) 30:10 32:7 32:23 43:20 48:20 meet (4) 15:18 48:1 50:24 52:3 meeting (1) 39:22 meetings (1) 29:20 meets (1) 14:20 members (13) 6:3 8:3 9:16,25 19:15 28:19 29:17,25 31:12 35:9 51:6 52:1 53:20 mental (1) 30:10 mention (1) 21:11 mentioned (2) 15:2

merit (1) 16:24 objections (2) 27:24 met (7) 51:4,15,25 34:7 52:3 53:14 56:7.9 mind (4) 9:7 42:18 43:8 49:23 mindful (1) 8:22 minimise (1) 20:16 Minister (14) 27:20.24 33:2.13.15.21 36:17 46:8 47:8.10 48:1.5 50:5 56:9 minister's (2) 1:19 56:6 minor (1) 2:19 minutes (1) 39:14 mistreatment (1) 44:7 moment (5) 5:3 25:5 25.24 35.5 55.2 Monday (2) 1:1 3:9 months (1) 33:5 morning (1) 29:1 motivation (1) 50:6 move (3) 2:2 36:8 37:1 N name (3) 1:15 12:1 15:4 named (6) 9:15 21:3 21:15 25:12 49:12 52:14 names (5) 8:25 11:11 11:16 12:8 29:25 nature (6) 27:21 39:2 51:10 53:3 55:17 55:23 nearly (1) 54:23 necessarily (1) 50:21 necessary (6) 3:9 17:19 27:17 36:12 42:22 51:7 need (11) 1:23 25:5 28:12 29:21 40:1 40:13 45:14 47:17 52:20 55:1,23 needed (3) 45:19 47:13 50:1 needs (4) 3:24 8:20 45:7 48:11 neither (1) 24:10 neutral (1) 54:4 neutrally (1) 50:15 never (2) 37:17 46:6 new (2) 53:17 54:3 non-compliance (1) 47:10 non-corporate (1) 4:4 non-disclosure (2) 20:23 22:3 normally (1) 20:17 Northern (1) 33:17 note (2) 13:2 34:20 notice (4) 14:15 40:14 40:15 58:2 notified (2) 14:18 58:5 notify (1) 54:25 notwithstanding (1) 30:8 number (11) 2:7 7:3,7 11:10 14:11 21:2 30:14 33:10 34:20 35:17 36:6 numbers (2) 12:10 18:20

0

object (3) 27:2,9,20

objecting (1) 27:15

objection (3) 26:11

42:16 55:12

obligation (3) 48:2 51:12 54:1 obligations (4) 18:11 19:3 20:23 55:20 obscured (1) 39:3 observations (1) 40:3 obtain (1) 19:17 obtained (2) 48:20 49:4 obtaining (4) 6:1 20:25 44:21 56:16 obtains (1) 10:13 obviously (1) 35:7 occasion (1) 39:18 occupation (1) 15:9 offence (2) 11:19 24:8 offences (2) 30:3 53:21 office (2) 3:17 58:13 Officers (3) 2:24 3:20 4:6 Olsen (2) 30:20,24 once (5) 33:12 34:5 35:22 51:12 52:3 onerous (1) 24:18 ongoing (4) 34:21 45:4 48:6,7 onus (2) 23:18 57:6 onward (1) 30:17 onwards (1) 17:6 open (3) 11:25 30:24 59:1 opening (8) 5:20,20 55:7,9 58:15,16,18 59:1 opens (1) 53:9 operated (1) 34:18 Operation (2) 38:15 42:16 opportunity (1) 53:24 opposed (2) 33:13 40:6 oral (6) 2:9 10:12 16:6 16:8 42:9,12 order (10) 6:3 11:1 12:15 27:6,10,11 28:3,12 33:3 45:17 ordered (1) 27:25 orders (1) 33:20 organisation (7) 10:11 17:12 18:14,19,25 23:17 58:23 organisations (3) 20:2 20:5,13 organise (1) 48:7 original (1) 13:5 Ossa (1) 49:13 ostensibly (1) 46:25 ought (2) 11:23 52:15 outside (1) 17:23 outstanding (1) 58:25 overhaul (1) 54:12 oversight (1) 6:11 oversimplify (1) 31:1 owing (1) 39:1 page (7) 10:16 13:7,19 16:2 26:6 29:4 47:18 pages (2) 37:8,9 Panel (31) 4:3,17 6:3

57:16.21 58:4.6 60:7 Panel's (1) 54:1 Pannone (1) 34:12 paperwork (1) 7:17 paragraph (23) 5:5 10:5.8.16.22.25 12:9.14 13:7.9 14:9 16:2 17:6.9 19:3.23 41:24 42:4 43:11 47:17 55:6 57:22 57:25 paragraphs (3) 15:13 29.5 47.15 parish (1) 15:10 part (7) 18:16 20:8 28:7 31:25 32:12 38.12 51.11 particular (20) 6:7,21 7:20 8:19.23 10:18 12.1 11 15.10 15 17:6 18:13 20:19 29:24 36:15 40:12 43:2 46:18 53:24 54.13 particularly (3) 31:15 35:13 43:7 parties (41) 5:9,19,22 9:17 11:8 13:11 14:21 16:16 17:8 18:1,3 19:5,10 20:21.22 24:2 30:18 31:6 35:4,5 38:23 40:22 41:4,6 41:20,20,23 42:23 43:3 45:23 50:19 51:2,3,11,13 53:10 54:16 55:9 57:9 58:9,15 parts (3) 13:11 15:14 37:22 party (36) 2:21 3:19 3:21,23 4:4,9 5:18 11:25 13:12,23 16:23,24,25 17:1 17:13,18,19,22 18:2,8,14,16,20 35:10 42:6 51:5,17 51:20,22,24 53:21 56:25 57:1,4,5 58:11 party's (1) 57:2 pass (1) 18:2 passage (1) 28:4 passages (2) 9:18 12:24 pathway (1) 8:9 Patrick (1) 1:16 pausing (2) 11:16,25 Pelion (1) 49:13 people (2) 21:15 27:2 perform (2) 24:20 45:19 period (5) 21:18 24:4 28:10 40:15 44:2 permission (2) 26:3,9 permit (1) 41:5 person (9) 8:16 9:2 11:19 12:21 15:4,5 15:11.16 17:11 personal (7) 2:23 12:7 12:12 42:2,19 43:19,25 persons (6) 3:22 11:2 39:5 41:3,4,5 8:3.14 9:16.25 13:8 pertain (1) 8:23 14:4 19:16 28:19 phase (4) 59:3.5.7.9 29:17 31:12.15 phrase (1) 50:17

piecing (2) 9:1 33:5

piling (1) 49:13

41:7 46:4.6.7 47:9

47:15.20 48:4 52:1

53:6,19 55:15

relates (3) 2:10,15,19

relating (2) 7:8 32:4

relation (43) 1:11 3:6

6:20 7:17 10:14

19:24 20:24 21:1

26:15 28:4 29:17

29:23 30:12 31:2

33:17 35:3.24 38:1

38:5.14 40:14 41:9

42:13 15 43:10

12:17,20 13:9

23:4.15 24:15

31:22 32:8.16

3:16 4:16 5:24 6:19

place (3) 9:13 36:5 45:7 placed (1) 43:7 plain (2) 33:2.10 Plainly (1) 39:22 please (5) 1:10 4:5,15 10:15 17:4 pm (4) 1:2 55:13,16 59:16 point (5) 30:7 40:11 41:2 43:9 54:6 points (5) 13:2 36:14 46:14 49:8 50:13 police (33) 1:24 2:16 3:12 6:22 7:20 8:2 19:13 30:21 31:2 32:19 35:6 7 37:5 37.13 17 23 38.3 38:10,14 39:1 41:1 42:15 43:4 44:4.9 44:15.20 45:5.10 45:16 53:13 54:2.9 political (1) 6:11 politicians (1) 6:23 position (8) 1:11 20:13 23:4 25:4 30:5 31:4 47:7 50:5 positive (1) 34:3 possession (2) 2:17 23:10 possible (5) 15:5 19:25 24:25 26:8 38:24 potential (5) 29:13,15 53:20,21 54:3 potentially (4) 8:25 33:4 34:4,19 power (1) 27:6 powers (2) 20:9 21:25 practical (3) 25:15 29:16,19 practicalities (2) 47:22 practicality (1) 18:19 precisely (3) 15:13 23:17 38:19 predecessor (2) 6:15 preferable (1) 4:25 prejudiced (1) 38:4 preliminary (3) 2:6 39:15 58:24 preparation (1) 2:8 prepared (1) 34:10 present (4) 42:9 47:7 47:8 51:1 presently (2) 52:16 56:9 preserve (1) 17:20 pretty (1) 35:15 prevent (1) 37:25 prevented (1) 53:4 previous (1) 43:11 primary (1) 7:21 principle (3) 4:22 29:21 48:3 prior (2) 4:21 9:8 prioritising (1) 24:23 privacy (1) 33:6 private (9) 26:21 28:2 30:21 33:23 34:16 35:2 36:3,5,13 privilege (1) 33:3 privileged (1) 33:1 privileges (4) 21:25 52:5.5.7 probably (1) 25:5 probative (1) 16:14 problems (1) 54:4 procedural (3) 2:7 9:9

31:4 procedurally (1) 24:15 provides (5) 16:3 17:9 procedure (3) 15:12 24:2 42:11 providing (3) 24:18 procedures (4) 5:25 12:17 17:5 22:12 provision (10) 6:10 proceed (1) 26:16 proceedings (1) 7:6 process (18) 4:25 12:19 14:18 15:17 provisional (7) 5:8 20:25 27:1 28:7 32:12 40:8 45:15 51:14.22.23 52:13 provisionally (2) 12:22 52:13.15 56:10 provisions (2) 17:15 58:4 processes (2) 26:14 psychiatric (5) 32:2 32.1 produced (5) 10:1 20:17 36:6 49:8 57:19 psychiatrist (2) 32:24 production (4) 20:10 public (20) 1:4,6 20:2 21.23 27.20 28.9 productive (1) 55:3 productively (1) 48:9 proper (4) 8:18,18 9:13 50:6 properly (2) 23:2 53:8 proposal (4) 39:9,21 publication (5) 11:1 39:22 52:24 proposals (1) 45:1 propose (2) 3:15 publicly (2) 26:24 38:8 45:13 publish (1) 13:10 proposed (5) 15:20 published (9) 9:24 25:16 39:8,12 57.21 proposes (1) 38:11 prosecute (2) 53:7,7 purported (1) 41:25 prosecuted (1) 30:4 purpose (5) 9:11 10:5 prosecutions (1) 45:11 prospect (1) 44:21 purposes (5) 1:22 7:12 protect (4) 11:4 37:11 pursuant (1) 44:18 45:7 55:23 protected (1) 52:15 pursuing (1) 36:18 protection (9) 5:6 10:3 put (8) 1:8 4:23 23:20 20:6,24 22:3,6 46:23,24 57:23 protections (1) 8:19 puts (1) 50:15 protective (9) 10:23 putting (1) 54:4 11:3.5 12:16 13:18 13:21,25 14:1,14 protocol (15) 5:6 10:2 qualified (1) 51:19

10:4,5 13:6 14:9

17:6 23:13 41:23

52:18,18 57:24

protocols (26) 5:15,24

9:9.11.18 19:12

23:25 24:1 31:5

46:10,21 47:5

37:22 41:12 44:25

49:22 50:10 52:16

19:14 20:3,8 22:10

53:15 54:8,12,14

56:6,7,8 57:12

proved (1) 37:7

provide (11) 12:21

provided (15) 6:8

23:6 24:1 30:3

50:11 55:24 56:8

10:10 11:4 16:15

17:17,21 20:1

23:11 26:2,19

provider (13) 12:21

23:18 58:1.3

providers (1) 12:16

provider's (2) 13:18

49:3.11

41:16 45:4 46:20

13:5.15.23 14:3.15

14:16 15:14 22:4.9

42:12 43:11 44:23

14:13

22:2 43:12 53:24

9:10 13:19 19:11

46:20.21 47:22

48:10 51:16.19

13:2.8.16 14:5

35.13 46.12 15

20:4,12 26:19 28:3

30:23 41:7 43:22

43:25 44:1.3 55:17

57:14 58:21 59:2

12:25 17:23 26:22

55:18,22 56:3

11:8,18 14:23

17:21,23 42:5

8:20 19:9 46:16

36:8 46:12 47:9

O

question (8) 21:13,14

36:11 43:17,23

50:7 57:5 58:17

questions (3) 42:10,25

54:22

quote (1) 57:25

50:19 52:23

56:7 59:13

16:21 23:13 41:16

15:16 30:16

13.10

22:3

47:1

35.14

38:21

37:8 55:25

R raise (1) 53:25 raised (11) 5:12 6:19 14:2,24 15:1 25:1 28:15 29:6 52:8,12 53:12 raises (3) 49:17 50:14 50:16 range (1) 7:2 rare (1) 55:17 read (7) 10:24 14:11 14:12 16:8 28:17 42:8 56:2 readily (1) 15:10 ready (2) 37:10.13 real (1) 9:3 really (6) 16:18 29:16 29:21 35:24.25.25 reason (4) 36:17 46:5 48:25 49:2

reasonable (3) 21:18

24:9 28:9 reasonably (1) 8:24 reasoned (1) 40:4 reasons (3) 12:2 52:21 56:19 reassurances (2) 27:22 36:19 reassured (1) 33:7 recall (1) 1:5 receive (2) 10:9 20:17 received (8) 16:3 28:24 29:1 30:20 36:7 39:13 43:4 56.15 recipient (1) 13:13 recognise (3) 24:17 40.24 55.18 recognised (2) 8:13 56:11 recognition (1) 10:16 record (3) 16:9 30:23 58.23 recorded (1) 8:15 records (12) 27:16,17 30:9,10,11 32:7 34:7 35:2 36:10 43:20 48:20.21 Rectangle (2) 38:15 42:16 redacted (15) 9:1 10:20 11:6 12:23 12:24 13:10 22:11 37:11 38:11 40:18 40:19 41:18 43:8 43:15.19 redaction (21) 5:2,6 9:21 10:4,14,15 12:18,20 13:24 15:20 22:8,13,15 26:15,25 38:9,21 39:4 52:11 54:7 57:23 redactions (12) 5:8 6:1 13:2,9,17 14:5 15:16 29:24 30:16 38:17 39:7 42:19 Redress (12) 7:15 8:1 21:10 23:1 25:19 25:22 31:23 32:10 48:14 56:13,16 57:19 refer (3) 2:12,16 22:1 reference (19) 2:18 6:4,7 12:13 16:14 16:20 23:9,19 24:22,22 29:8,24 46:5 48:19.19 50:3 53:1,5 55:21 references (1) 26:18 referred (5) 8:4 16:5 16:16 41:14 58:19 referring (2) 20:20 39:15 refusal (2) 47:13,14 refuse (3) 27:23 50:8 57:4 refused (3) 13:17 14:13 50:8 regard (1) 45:2 regarding (2) 47:21 50.11 regret (1) 43:10 regulation (2) 24:7,13

regulations (3) 22:1,2

reiterated (1) 25:15

reiected (1) 39:8

rejection (1) 40:14

relate (2) 6:10 40:5

related (1) 26:11

24.7

44:24 53:16 54:6 57:15 58:8 relationships (1) 34:22 relative (1) 42:6 release (3) 25:20 29:12 49:11 released (2) 34:1 43:2 relevant (19) 1:22 2:13,17 3:21 12:12 16:13 23:9.19 27:6 27:9,17,20,24 32:22 42:8 45:17 46:16,17 48:25 reliability (4) 32:3,24 57:2.5 religious (1) 33:20 remain (2) 22:16 27:23 remainder (1) 24:5 remember (1) 51:23 remind (1) 47:14 removal (1) 13:16 removed (1) 26:22 repeat (1) 38:16 repeating (1) 50:10 reply (5) 25:17 27:3 27:14,14 54:21 report (4) 6:4 27:5 35:16 47:1 reports (1) 42:14 represent (2) 34:22 57:10 representative (1) 57:10 representatives (1) represented (3) 1:24 2:3 34:11 represents (1) 3:10 request (5) 18:10 20:4 20:16 30:2 39:18 requested (1) 22:10 requests (1) 42:9 require (5) 6:7,11 53:1 56:23 57:18 required (5) 3:13 12:17 13:6 32:2 50:3 requirement (1) 57:12 requires (5) 2:22 4:17 6:13 53:6 57:17 research (1) 10:13 residential (1) 6:8 residents (1) 21:5 resolved (1) 58:10 resolving (1) 56:4 respect (11) 2:20.25 3:18 6:20 11:20 17:15 30:9,19 33:19 44:25 56:24 respond (1) 45:24 responded (1) 28:14 response (3) 43:10,23 49:19 responsibility (6) 51:16 52:6 54:2

55:20 57:6,9 restrict (1) 11:1 restricted (2) 36:25 38:22 result (4) 5:12 28:8.11 33:11 resulted (1) 8:12 return (3) 18:9 26:10 34:14 returned (1) 34:6 revealed (2) 12:5 39:12 review (1) 57:7 reviewing (1) 36:9 rhetorical (1) 43:16 right (3) 2:4 51:6,12 rightly (1) 51:1 rise (3) 39:4 54:24 55:3 risk (7) 41:11 44:19 50:9,21,22,23 51:4 risks (2) 51:14,15 Robert (1) 1:25 Roman (1) 33:20 round (1) 14:24 route (22) 5:1 19:19 19:19,20,20 21:9 21:17,20 22:17,18 29:23 33:13,13,16 33:18 35:10,24 37:18 49:4,5,15 56:17 rules (2) 35:22 45:6 ruling (10) 10:23 11:3 13:21.25 14:1.14 run (1) 7:5 Sadd (5) 1:16 46:1,2 54:23 60:6 saddened (1) 33:15 safeguard (1) 15:19 safeguards (5) 8:18 9:13 55:25 56:8,10

35:18 11:4,5 12:16 13:18 sanction (2) 35:20 41:3 54:15 sat (1) 39:14 satisfaction (1) 15:21 satisfactory (2) 43:5 50:22 satisfied (3) 5:13 52:2 58:7 satisfy (1) 16:23 save (3) 11:18 12:8 33:18 saw (1) 39:10 saying (1) 31:1 says (4) 3:11 15:7,15 29:6 scenario (1) 22:19 scene (1) 59:10 scheme (22) 7:15,18 8:1 21:10 23:1 25:20,23 30:9 31:23 32:1,10 33:9 34:11,17,21 35:12 36:4 48:14.17 56:13,16 57:19 scope (2) 8:25 14:4 seat (1) 36:25 second (7) 1:4 2:15 5:2 9:22 29:23 40:17 57:14 secondary (1) 48:10 snippets (1) 9:2 Secondly (1) 57:21 social (8) 1:20 2:11 second-guess (1) 6:14 18:22 32:7 23:21 34:23 48:21 57:15 section (2) 10:15 SOJP (8) 2:16 5:13 9:5 26:13

secure (1) 18:6 security (1) 30:16 see (24) 1:25 10:4.22 13:3.7.14.19 17:16 18:7 21:4 22:24 24:5 26:6 34:2 35:21 38:19.20 42:4.21 43:1.4 49:13 52:20 54:22 seek (4) 4:23 19:25 25:20 27:20 seeking (4) 14:1 25:12 28:7 31:23 seen (4) 25:13 39:9 49:5 54:10 sense (1) 55:3 sensitive (8) 8:5.15 9.18 22 32.11 43.6 53:3 55:23 sensitively (2) 36:20 44.18 sensitivities (2) 49:24 49:25 sensitivity (4) 35:11 49:22 52:12.13 sent (1) 56:12 separate (2) 22:8 30:2 series (4) 6:8 9:9 25:13 52:1 serious (2) 34:24 seriously (1) 57:4 served (4) 20:11 22:25 27:12 48:15 service (4) 30:10,10 34.25 48.21 Services (7) 1:21 2:11 6:15 18:22 32:7 34:23 57:16 session (1) 1:4 set (19) 5:14,23 6:4,6 7:4 10:5 12:19 14:10 15:12 23:12 23:23 24:6,9 42:11 52:25 56:19 57:12 59:10,10 sets (3) 10:8 26:14 setting (2) 26:7 29:5 seven (1) 57:20 sewn (1) 46:10 shape (1) 37:19 share (2) 9:6 30:14 sheet (3) 32:13,18 short (4) 29:3 37:23 39:25 55:14 shortly (4) 4:12 20:11 25:8 38:7 showed (1) 47:17 sign (2) 17:2 26:9 signed (2) 17:7 51:7 significant (1) 7:24 signing (1) 35:4 similar (1) 43:9 simply (8) 2:21 3:7 15:25 18:21 21:2 21:13 23:20 29:11 single (2) 21:1,1 sits (2) 1:25 2:4 situation (1) 27:19 size (1) 39:2 Slater (2) 3:3,7 slightly (1) 2:2 small (2) 8:24 39:2

19:18 23:16 24:11 30:13 53:22 solely (1) 17:21 Solicitor (1) 3:25 solution (3) 39:12 40:10,12 somebody (1) 15:6 someone's (1) 33:22 soon (2) 24:25 26:8 sort (6) 10:8 15:12 41:8.9 42:22 44:18 sought (3) 4:20 30:11 49:12 sources (1) 7:3 span (1) 49:24 speak (1) 38:3 specific (8) 30:3 32:15 34:6 40:6.13.14 42:10.25 specified (3) 12:9 13:24 35:21 spectre (1) 49:17 spending (1) 33:4 Sport (1) 1:19 spreading (1) 50:14 staff (1) 7:11 stage (5) 2:10 4:14 6:24 30:6 49:16 stand (1) 37:13 standards (1) 54:15 start (3) 7:25 15:20 21:17 starting (2) 10:16 40:11 State (1) 8:10 statement (2) 18:4 21:16 statements (10) 5:20 10:11 16:7 32:20 38:13 40:25 41:18 55:7,10 58:15 States (36) 1:18,24 2:15 3:12 6:5 7:19 9:5 19:13,13 21:24 24:21 27:8 35:6 37:4,13,17,23 38:3 38:10 39:1 41:1 42:14 43:4,15,18 44:3.9.15.20 45:5.9 45:16 50:4 53:13 54:2,9 status (19) 2:21 3:19 3:21.24 4:4.9 5:18 16:24,25 17:2 18:20 51:17,24 52:7 56:25 57:1,5,6 Stephenson (1) 2:4 steps (3) 17:19 37:24 38:4 stop (1) 49:3 storage (1) 18:6 stories (1) 32:4 story (1) 32:24 strongly (1) 54:11 struck (1) 56:4 struggle (1) 42:21 subject (1) 18:16 submission (8) 5:23 19:10 28:4 30:4 41:25 43:23 47:9 56:24 submissions (17) 1:13 10:3 31:18 36:23 37:3,17 45:20,22 46:1 49:20 54:21 54:24 58:19 60:3.4 60:5.6 submit (4) 12:22 15:16 28:7 44:2

submitted (1) 5:9 subpoenaed (1) 36:6 subsequently (1) 13:15 substantial (1) 54:8 success (1) 45:12 successfully (1) 12:4 suffered (4) 8:12 32:5 32:6.25 sufficient (1) 19:8 suggest (1) 7:9 suggested (3) 4:21 45:3.7 suggestion (2) 45:6 53:8 suggestions (1) 37:15 suggests (1) 52:17 summarise (2) 25:3 31:21 summarised (1) 12:19 summarises (1) 28:20 summarising (2) 50:5 52:9 summary (3) 6:24 25:7 32:13 summons (38) 4:18,24 19:20 20:9 21:23 22:11,17,21,25 23:10.24 24:5.6.8 24:10,10 25:11,18 27:12 28:6 29:12 29:22 30:8 33:13 33:16,19,21 34:19 37:18,20 47:11,13 48:2,5,15 50:9 56:20 57:17 summonses (4) 20:10 22:20 23:6,15 summonsing (1) 20:15 supplied (6) 18:4 22:16,17 32:18 40:19 42:14 supply (2) 22:5 27:6 support (1) 56:15 supports (1) 49:6 supposed (1) 40:8 sure (5) 8:14 10:2 15:25 19:9 35:11 suspect (1) 38:25 suspects (1) 37:12 system (8) 8:9 38:22 40:20 41:19 42:3 42:18 43:3,7 Т tab (4) 10:1 17:5,5 22:22 take (23) 4:14 5:15 7:24 9:17,25 10:15 17:19 21:5 22:21 24:19 25:5 29:4 36:5 37:24 38:5 39:20,23,25 47:18 50:25 51:11 57:4 taken (4) 6:18 16:8 32:14 37:18 takes (3) 15:6 19:4 56:18 talk (1) 31:22

traduced (1) 54:19 transcribers (1) 55:1 transferred (3) 43:14 43:18.21 transmission (1) 30:17 treat (1) 4:5 treated (1) 44:17 tribunal (2) 42:21 45:9 tries (1) 50:24 troubles (1) 44:3 trust (1) 34:24 Tuesday (1) 59:4 turn (7) 15:23 17:4 25:24 56:24 57:13 58:10,17 Turning (2) 26:6 50:13 two (9) 9:20 11:17 13:2 14:21 29:16 35:7 37:15 46:14 task (2) 24:18 45:19 51:6 team (4) 8:13 33:4 47:5 48:18 U telephone (3) 3:9 ultimate (1) 40:23 12:10 40:1 tell (1) 1:10 ultimately (3) 33:19 tenet (1) 17:17 40:24 41:6

unable (1) 24:3

unclear (1) 35:20

unacceptable (1) 39:3

tension (2) 55:19 56:5

term (3) 32:5 53:5

56:11

uncontrolled (1) 41:21 termed (1) 59:2 terms (17) 2:18 6:4,7 unconvicted (1) 38:25 9:19 12:13 16:14 undergo (1) 32:2 16:20 23:9.19 underlying (1) 33:5 24:21 29:8 30:14 undermined (1) 35:1 32:3 46:4 50:2 53:1 understand (7) 7:16 55:21 23:2.3 24:12 26:1 text (1) 57:24 26:20 57:11 thank (11) 1:14 3:5 understanding (5) 28:18.20 31:12.19 33:17 34:13.15 36:23 45:21 46:2 35:8 58:20 54:23 59:15 understands (2) 20:12 therapeutic (1) 34:21 35:11 thereto (1) 26:3 understood (7) 5:25 thing (2) 41:9 55:5 10:24 15:11 16:1 things (2) 31:1 44:16 28:5 31:6 53:16 think (8) 28:18,23,24 undertake (1) 18:1 29.1 31.15 36.25 undertakes (1) 17:14 45:22 54:6 undertaking (4) 17:17 thinks (1) 53:5 35:3,19,21 undertakings (8) 5:11 third (7) 2:19 5:11 18.2 41.20 44.5 5:14 17:3,7 19:6,8 45:14 58:24 30:17 58:7 Thirdly (1) 58:6 unredacted (2) 13:13 thorough (1) 55:21 13:14 thought (4) 21:8 35:16 unsatisfactory (1) 36:9 42:22 51:9 thread (1) 46:9 unworkable (2) 21:2,7 three (5) 1:18 2:9 38:6 updated (1) 2:25 38:7 51:2 uploaded (2) 40:20 threshold (2) 52:3,4 42.2 tick (1) 34:5 urge (1) 35:25 tied (1) 53:11 urges (1) 36:17 time (14) 3:25 4:1 use (3) 17:3 31:7 47:2 6:20 21:6,12 24:3 usual (1) 22:12 24:14.19 32:14 39:9,13 44:2 53:24 56:18 validity (1) 24:13 timeframe (1) 14:7 variation (1) 14:1 times (1) 59:15 versus (1) 29:22 timetable (3) 58:17,24 victims (3) 29:9 35:15 59:13 today (22) 1:3,9,17,23 view (5) 4:3 32:23 3:15 4:13 7:13 10:1 36:25 47:21 56:5 10:3 16:18 19:15 viewed (1) 33:21 23:4 24:10 31:5 virtue (2) 21:24 37:22 38:3 47:12 48:4 voluntarily (1) 20:1 52:24 57:13 58:6 vulnerability (3) 36:16 58:10 59:12 46:17 50:12 told (2) 32:4 33:12 vulnerable (4) 8:5 tomorrow (1) 49:2 46:8,23 56:3 touch (1) 38:9 w waive (1) 33:3 want (12) 5:19 33:10 38:6.9 40:2 44:6 46:4 50:15 52:17 54:9,17 58:15 wanting (1) 44:25 warning (1) 53:23 warranted (1) 43:24 way (26) 4:23 14:17 15:19 22:12 23:20 28:8,21 29:4 31:9 37:6,19,21 38:4,17

41:7,16,19 43:7 45:15 47:16 52:10 52:18,19 54:4 58:3 59.11 ways (2) 29:15 39:22 website (4) 1:9 11:9 16:11 23:14 weekend (1) 39:11 weeks (1) 7:25 went (1) 26:1 whatsoever (2) 36:4 56:1 whilst (4) 7:23 8:10 22:9 32:15

wholly (2) 37:5 51:13 16:12 21:24 25:17 wide (2) 7:2 23:16 25:25 40:21 41:13 widely (2) 8:20 16:17 43:14 58:8.25 wide-ranging (2) 6:4,6 59:17 willingness (1) 20:7 2.000 (1) 7:11 wish (7) 5:4 9:15 20:3 2,500 (1) 37:8 36:22 37:23 38:4 2.00 (1) 1:2 20.4 (2) 41:24 42:4 55:9 wished (1) 25:11 20.4.1 (1) 42:7 wishes (1) 42:25 2007 (3) 22:1.2 24:7 withdrawn (1) 49:16 2014 (2) 1:1 59:17 witness (12) 10:11 22 (2) 59:4,14 23 (1) 22:23 11:13 13:12 16:7 18-4 21-14 32-19 24 (2) 13.7 9 38:24 41:14.18 24.3 (4) 5:5 14:9,12 46:23.24 57:22 witnesses (9) 10:12 27 (1) 13:19 21.11 28.2 37.12 42:11 43:1 56:3 59:11.15 3 (16) 1:5 9:8 10:16 wording (7) 5:5 14:20 13:17 16:18 19:22 17:16 22:24 23:6 21.19 23.24 25.8 23:15 57:22 26:6.11 56:7.18.20 words (3) 13:4 14:10 59:3.4 40.7 3.30 (2) 54:23 55:13 work (18) 1:7 2:14 6:2 **30 (1)** 28:16

6:25 7:1 8:1 17:15

21:18 24:20 27:17

43:13 45:9 48:21

49:9 56:21

worked (1) 59:6

worry (1) 35:16

write (1) 30:24

25:19

58:20

38:18

young (1) 8:5

writing (2) 13:16

written (2) 13:22

year (2) 21:6 56:7

yellow (3) 12:23 13:4

1 (13) 4:16 11:10,11

59:7,9 60:3

11 (2) 25:9 47:18

12.000 (1) 7:10

13 (7) 3:7 10:16 28:24

132 (3) 31:23 33:9

133 (2) 7:17 26:1

14 (2) 20:18 24:1

15.1 (1) 17:16

15.2 (1) 17:24

15.3 (1) 18:6

15.4 (1) 18:7

17.1 (1) 12:9

17.2 (1) 12:7

18 (1) 12:14

1945 (1) 6:9

1960s (1) 15:8

16 (2) 1:1 18:11

17 (3) 10:22,25 18:13

2 (16) 3:18 10:5 11:14

13:15 14:11 16:2

15 (4) 17:6,9 19:3 50:2

31:20 36:15 47:16

12 (1) 3:17

53:5

56:12

13:12 16:4 22:22

41:15 43:14 59:3,5

wrote (2) 25:22 31:20

40:11

workable (2) 21:20

18:12 20:3.14

4 (4) 10:8 12:3 24:7,13 4.10 (1) 55:16 4.18 (1) 59:16 **45 (1)** 60:6 **47 (1)** 34:3 **48 (1)** 49:1 **5 (2)** 30:7 55:6 **50 (1)** 35:9

31 (1) 60:4

37 (1) 60:5

55 (2) 34:5 60:7 6 6 (2) 16:2 25:23 **7 (2)** 10:1 43:12 8 8 (3) 17:5 41:23 43:11

96 (1) 19:23

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