Report Para No.	*Concern or Example provided by Data Commissioner*	Response by Inquiry
31	*The Inquiry (and/or their legal counsel) has failed to implement, from the outset, clear policies as to how that data should be dealt with so as to comply with the DPL".*	This is untrue. A detailed explanation of the robust processes the Inquiry has adopted is set out in the Inquiry Response. (paras 24-34)
34/44	*The Inquiry has requested quantities of documentation from providers without consideration of whether it was necessary or relevant*	The Data Commissioner makes no mention of the extensive exercises carried out by document providers in conjunction with the Inquiry to ensure only necessary documentation was provided. (para 37 onwards)
45	*Concerns raised about the manner in which the Inquiry has conducted the summons process.*	The Data Commissioner misrepresents the Inquiry's processes. Her account contains several inaccuracies and misconceptions which the Inquiry addresses in its response. (paras 35-47)
47	*At the beginning of the Inquiry, a former director was purportedly contacted directly by solicitors to the Inquiry for C4 documents rather than through the proper channels. Documentation is purportedly requested at extremely short notice. On one occasion the documents (which were highly sensitive and located in a private area) were said to be required almost immediately and this was very problematic, on both an organisational and staff welfare basis.*	The Inquiry is unaware of any such occurrences. Both criticisms are based on unspecified assertions by an anonymous person.(para 47)
56a	*The Inquiry does not appear to advise the Interested Parties of proposed amendments with sufficient notice to allow the Interested Parties to properly consider those amendments.*	Under States of Jersey Standing Orders, the Inquiry is empowered to make its own rulings. The Inquiry is not required to seek the approval or views of Interested Parties when amending its Protocols. However, in the interests of natural justice and in maintaining its transparent approach, where appropriate, the Inquiry has considered input/views from the Interested Parties in relation to any such amendments. Examples of instances where the Inquiry has incorporated Interested Parties input are provided in the Response. (para 53)
56b	*The Inquiry refuses to accept submissions from the Interested Parties as to the adequacy of the proposed amendments. On 17 March 2015 the Inquiry wrote to the Interested Parties advising that the Inquiry Panel had decided*	The assertion that the Inquiry has refused to accept submissions from Interested Parties is simply untrue.

	to amend the Protocol and a copy of the proposed amended Protocol was provided. The Inquiry advised that the Protocol was to come into effect on 24 March 2015. The Inquiry indicated that they would not entertain further submissions in respect of the proposed amended Protocol in light of the fact that they had received submissions in respect of "the proposed process previously circulated". The Inquiry concluded by stating that "In light of the Panel's decision to amend the Protocol and also the process, the Inquiry will not respond to those submissions previously made."	The Report has selectively quoted from a detailed Panel ruling. In respect of the March 2015 amendments, since October 2014, the Inquiry had been in discussions with the Interested Parties around further amendments to the DP Protocol, particularly surrounding the issue of redaction. Therefore, the Interested Parties were aware that changes were to be made and they had relayed to the Inquiry their views and concerns which were duly considered. On 17 March 2015, the Inquiry then sent an email to the Interested Parties attaching a copy of the revised Protocol, explaining that this would come into effect on 24 March 2015. No objections were received from the Interested Parties. (paras 56-58)
56c (i)	*"At Appendix 8 is a copy of the Inquiry Ruling – Amendment to Data Protection, Freedom of Information and Redaction Protocol25 which states that "The Panel, having reviewed a number of documents received from various providers, have made the following ruling of its own initiative. The protocol has been amended to include that any information already in the public domain will not be redacted"*	This is a simply a factual quote from an Inquiry Ruling. It is not clear what point the Data Commissioner seeks to make. (paras 56-58)
56c (ii)	*On occasions, witnesses' inquiry statements contain inaccurate facts or claims which are hearsay from third parties. This means that certain information being put into the public domain is potentially inaccurate.*	It is not clear to what witness statements the Data Commissioner refers or what enables her to reach the view they contain inaccuracies. Statements from potential witnesses are prepared in advance of them giving evidence so they can be provided to Interested Parties, who can submit through counsel questions for the witness. Witness statements are only placed in the public domain alongside full transcripts of the hearings which will contain any questions raised on points of accuracy. (paras 56-58)
56c (iii)	*In relation to the Protective Measures Protocol, the deletion of the former paragraph 18 had the effect that Interested Parties are now no longer to be informed when protective measures applications are being made, or have the chance to make submissions, taking away their right of reply in relation to those matters*	The Protocol was amended to protect the privacy of individuals who did not want their identities to be known to Interested Parties. Interested Parties accepted this amendment. (paras 56-58)

56c(iv)	*"Due to the sensitivity of the records, and the allegations being made, it is essential that the redactions are applied consistently and that there are no errors. It only requires one occurrence of a name left un-redacted to lead to the identification of an individual. Under the protocol, departments are meant to have 5 days' notice to check provisional redactions. Under the old protocol, when larger amounts of documents were being redacted, (which was unnecessary as they would not ultimately be utilised in a public hearing room), the compliance with the 5 days process and the error rate was unacceptably high"*	This is a vague unspecified assertion by an anonymous agency. No examples are given of errors. (para 58)
56c(v)	*There is a commitment to give notice of any future changes to the DP Protocol, but it is evident that this has not happened on a number of occasions. This means that any teams assisting the Inquiry often struggle to do so. Under the DP Protocol, the Inquiry should give 48 hours' notice with regards to any rejected redactions, or in relation to witnesses coming forward to give evidence. For example, notification of witness [X] coming forward to give evidence was only sent after close of business on the day before the witness was due to appear, meaning that many of those individuals' records were not available for the Inquiry hearing*	Witness [X] did not provide oral evidence to the Inquiry. This individual's evidence was read into the record on 27 February 2015. An email was sent to the Interested Parties on 25 February 2015 to notify them of amendments to the timetable. Documents for this witness were released to all Interested Parties on 20 February 2015. (paras 58)
61c(i)	*The Inquiry has apparently displayed a relatively high propensity to fail to redact personal data in documents that the Inquiry has generated or that it has received from elsewhere than the 'official' documents providers. One document provider estimates that the failure rate may be as high as 30-40%.*	These speculations are made by an anonymous party and repeated by the Data Commissioner unsupported by any evidence. The figures are wholly inaccurate. (paras 60)
61c(ii)	*The Inquiry is apparently resistant to the suggestions of certain document providers to redact certain identifying features of witnesses (for example month and year of birth). It is not clear why the Inquiry considers that such specific personal data should be left unredacted or why it assists the Inquiry's processes not to take the 'abundance of caution' approach to redaction apparently advocated by certain of the document providers.*	This is factually inaccurate. In respect of redacting individual's dates of birth, the dates and months of birth are redacted on each occasion. However, the Inquiry does not consider that retaining someone's year of birth will identify them where all their other details are anonymised. Year of birth assists the Inquiry with context of the evidence it is hearing, for example of the age of a victim or alleged abuser. If an Interested Party suggests that the entire date of birth be redacted, the Inquiry will have considered this and if the suggesting is not accepted, the Inquiry will respond explaining the reasons for the approach taken to redactions. (paras 60)

61c(iii)	*There have been numerous instances of careless disclosure of data to Interested Parties due to redaction errors by the Inquiry and this is an on-going problem.*	This is a vague and sweeping statement This is a sweeping statement without any context, evidence or particularisation. (para 60)
61c(iv)	*At least one Social Enquiry Report (SER) pertaining to an offender was disclosed to the Inquiry without the knowledge or approval of the Royal Court. The matter came to light when the prosecution bundle including the SER were to be uploaded onto the Inquiry website and there was dispute between the Advocate for the relevant document provider and the Inquiry Solicitor as to which parts should be redacted.*	The document in question was disclosed to the Inquiry by a document provider, it appears by mistake or without authorisation. The document was ultimately redacted and exhibited to a witness' statement and then released to the Inquiry's document management system to which Interested Parties have access (it was not uploaded onto the Inquiry's website as suggested). As soon as a concern was raised by the legal representative of a different Interested Party, the document was removed from the system. (para 60)
62	*The Commissioner understands that on 26 May 2015, two witness statements relating to witnesses who were to be examined on 27 May 2015 had still not been provided to the Interested Parties. It is further understood that one witness statement was received on 26 May 2015 at 19:52 but that witness did not ultimately give evidence until 28 May 2015. As for the remaining witness who was examined on 26 May 2015, their witness statement was not received until 26 May 2015 at 22:18.*	This is factually inaccurate. Full details are provided at para 61 of the Inquiry response. The statements were sent to IPs as soon as they were signed by witnesses. The Inquiry would not, and did not pressurise witnesses, who were often very vulnerable and giving evidence in extremely difficult circumstances, to return their statements before they were comfortable in doing so. (paras 61)
63 (i)	*A senior member of C4 has watched the enquiry on two occasions; both times a name was mistakenly un-redacted and was shown on the large screen in the presence of the public and journalists. On another occasion, a colleague's name was shown on the large screen simply because they had printed out the document in question and their name was not appropriately redacted.*	The Inquiry is unable to respond without further information. The Inquiry can find no example of a senior member of an agency drawing any redaction problems to its attention during proceedings. (para 62)
63 (ii)	*In April 2015 a document containing the name of an alleged victim was published on the Inquiry website. The Interested Party who had provided this document to the Inquiry had proposed redactions in yellow which they considered ought to be made to the document. Those redactions were apparently ignored/overlooked by the Inquiry and the document was published on the Inquiry website which contained the name of the alleged victim together with certain other sensitive data. The document purportedly remained on the Inquiry website for some hours prior to an independent third party contacting the Inquiry and advising them of the error. Despite*	The circumstances described in this example are extremely misleading. The Inquiry has sent detailed correspondence to the Commissioner in relation to this issue, which has not been reflected in the Report. A copy of the Inquiry's correspondence is attached to this Response at Appendix B. The problems stemmed from a technical issue which has also been experienced by the Data Commissioner where redacted text in her

	Eversheds confirming that the error was unforeseen but remedied, this document remained on the Inquiry website until 13 October 2015 allowing any third party accessing such documents to remove certain of the redactions. The document was subsequently replaced at the insistence of the third party.	original report could be made visible under certain conditions. (para 62)
63 (iii)	*There are instances where social care files of individuals (including of those who explicitly rejected the use of their records by the Inquiry) being uploaded to the Inquiry website39. The Commissioner remains concerned about the publication of such social care files, albeit with redactions, and making such available on the World Wide Web, due to their extreme sensitivity.*	Whilst the social care files of individuals are very sensitive, this is the very nature of the material that the Inquiry's work is concerned with. To ignore the gravity and seriousness of that information would be to avoid reality of the events that the Inquiry is concerned with, and which it has a duty to be transparent about. All of these files have been redacted so as to anonymise the individuals involved and prevent any identification. (para 62)
63 (iv)	*One complainant has expressed concerns that the mechanisms in place to protect individuals granted anonymity are not as robust as they necessarily could be. For instance, while an individual sits behind a screen, there is no mechanism to disguise their voice40*	No witness has made this request. When providing evidence to the Inquiry anonymously, all witnesses were informed that their voices will be heard in the public gallery Voice distortion technology is not routinely in courts save in extraordinary circumstances (e.g. when life would be at risk if a person were identified) Should a witness decide that the risk of identification is too great, they can make an application to provide their evidence privately when only the Panel are present (or indeed not provide their evidence at all). (para 62)
63 (v)	*One complainant has noted that the Inquiry team has prepared redacted documentation for witnesses which also have a unique cipher number applied to it. During the public evidence, the witness is purportedly often shown a ciphered document, and told that number e.g. 123 refers to them. Therefore, anyone within the public gallery knows that 123 = for e.g. Mr Smith. The same document is then shown to Mr Smith when appearing as an anonymous witness Mr X. This further negates the anonymity protection41*	In using cipher numbers, rather than naming some witnesses, the Inquiry has struck a balance between protecting personal data and sensitive personal data against what is in the public interest and its duty of transparency. Much of the Inquiry's evidence would have been rendered meaningless had there not been the ability to link an individual witness' evidence throughout the proceedings, and the adoption of cipher numbers allowed that level of protection whilst meeting the public interest. If a witness was providing public and anonymous evidence, the Chair to the Inquiry would make a protective ruling to restrict the publication of the relevant cipher number. (para 62)

68 a-o	*Fifteen errors are listed in respect of documentation which was disclosed only to IPs in the secure Magnum environment.*	Interested Parties are subject to confidentiality obligations and Interested Parties must take steps to preserve the confidentiality of material released to them and must not disclose or pass on to any third party, other than the Interested Parties own legal representatives, any material supplied to it by the Inquiry, save with permission of the Inquiry; all material disclosed to IPs must be stored in a secure place to prevent any unauthorised access; and must be used solely for the purposes of the Inquiry and any material must be returned or destroyed at the Inquiry's requests. Detailed responses to point 68 (a) – (o) are given at pages 15-17 of the Inquiry Response. (para 65)
71	*Alleged breach of injunction*	The Inquiry was provided with a statement. It was not made aware an injunction was in place in relation to certain information in that statement. The statement was on the Magnum system for less than an hour and had not been notified to IPs when the Inquiry was made aware of the potential problem. Although the injunction did not prevent the naming / identification of certain parties to those proceedings, the Inquiry consulted with the Commissioner and removed the statement immediately. (paras 68-72)
73	*Counsel to the Inquiry incorrectly read aloud a detail which could have allowed the identification of a witness.*	Upon the matter being raised by an Interested Party, the transcript of the hearing was reviewed and the Inquiry accepted that the redactions relating to a particular third party had been incorrectly read aloud by Counsel on that occasion. Counsel to the Inquiry was reminded of the redaction policy and the Inquiry discussed the matter with the relevant witness who did not raise any concerns. (para 73)
76	*Certain tweets were published by the Inquiry and which detail allegations made by certain alleged victims against a former houseparent of Haut de La Garenne (**HDLG**)*	The Inquiry reviewed its tweets which are of necessity brief and accepted that in relation to a small number of tweets, a member of the public, without the benefit of context, might assume that the tweets were a

		finding of fact, and would not know that the tweets simply repeated what a witness had told the Inquiry. The tweets did not contain any unredacted material. The Inquiry removed the tweets and changed its social media practice (paras 74-75)
89	*This relates to correspondence following the Inquiry's notification to a document provider of the proposed disclosure to a witness of a copy of records the provider had supplied to the Inquiry. The Inquiry had redacted the records and sought the provider's views on the redaction. The provider considered some documents had not been redacted sufficiently and others had been "over-redacted". The provider accepted that the Inquiry had applied the standard redaction approach in line with the Inquiry protocol, but had unspecified concerns the approach did not entirely accord with data protection law because of the nature of some documents.*	**No documents were disclosed** to the witness. The complaint seems to be that Inquiry took the correct course of action by approaching the document provider, seeking and responding, to their views. The Inquiry quite properly sought to work with the document provider to ensure that the documents were properly and appropriately provided to the relevant individual. The Data Commissioner does not seem to be clear what data breach, if any, is being alleged here. (para 77)
95	*Concerns have been raised by C2, C3 and C4 regarding the Inquiry's use of court documents. For example it has uploaded liability reports for a case currently involved in live proceedings to all Interested Parties, contrary to a court order, and has also uploaded Probation Social Enquiry reports.*	No specific details are provided. At para 79 of the Inquiry response details are given of a case where documents were provided to the Inquiry in redacted form. The documents were subsequently released to the Interested Parties for use in a hearing, as the Inquiry believed it had consent to do so. Upon notification that there was some confusion in respect of the terms of the court order and the basis upon which they could be used by the Inquiry at that stage, the redacted documents on the Magnum system were hidden from view of the Interested Parties and the documents were not used in the hearing. The documents were not made available to the public. (para 79)
102	*An Eversheds employee took away from the Island the hard copy notes they had made in that interview; and the Eversheds employee subsequently left the employment of Eversheds and those original notes could not be located.*	**This is untrue.** No notes were lost. No former member of the legal team left with notes. No evidence to support this unfounded allegation is provided. The Inquiry has set out in the Response circumstances which have resulted in persons having to be reinterviewed, which have been due to the late disclosure of documents by providers. (para 84)

104	*Allegation that insufficiently secure means were used to send papers to the UK.*	This assertion is based on incomplete information the Data Commissioner says she has obtained from a UK media website. There is no evidence of this or any other piece of mail sent by the Inquiry being tampered with. The Inquiry uses means of sending papers common to other Inquiries and tribunals. (para 85)
110	*The Commissioner is concerned that the Inquiry has apparently allowed hard copy documentation to be transmitted insecurely between Jersey and the UK.*	This is without foundation. There has been no loss of hard copy notes (see paragraph 84).
114	*the Inquiry appears to lack appropriate procedures*	This is also entirely without foundation. The Commissioner has not asked for details of the Inquiry's procedures. These are now appended to this Response. The Inquiry was well aware of the potential risks of data security and, there are significant measures in place. As the Commissioner recognises at paragraph 116, there is no evidence that damage has been caused by the transmission of data and any risk of this happening was addressed and managed from the outset of the Inquiry and throughout the course of its work to date. (para 87)
118	*Unsatisfactory redaction*	Paras 118-123 of the Report are a misleading explanation of the issue that arose. A full explanation has been given in the Response. The Data Commissioner's Report itself has been subject to the same unsatisfactory redaction. (para 88)
128	*Certain individuals who may have been the subject of police inquiries at various times but against whom no charges were brought/arrests made (such cases clearly, for whatever reason, not having passed the evidential threshold for prosecution) are being routinely named by the Inquiry notwithstanding the fact that they are still alive and where the specific information referred to in the Inquiry was not previously in the public domain.*	There is no foundation in the assertion the Inquiry "routinely" names alleged abusers. The Inquiry has the discretion to consider the naming (or not-naming) of individuals and makes determinations in accordance with its protocols. The Inquiry knows of no instance where an alleged abuser whose name is not in the public domain has been named. In the absence of specific details it cannot comment further. (paras 89-92)

130	*An individual made an application for protective measures in early 2015 [**Appendix 16**] under paragraph 1.1.4 of the Protective Measures Protocol. The individual's application was refused for the reasons set out in the Inquiry Ruling and on the basis that the panel was satisfied that allegations of physical abuse made against that individual were in the "public domain", such as defined by the Inquiry in a ruling on 24 October 2014.This finding was apparently on the basis that allegations purportedly originally aired in a television broadcast in 2010 by a member of the regulated media remained accessible online and that the information remained realistically accessible to the general public. The report relied on by the Inquiry has, in fact, been removed from the regulated media website and is only available via a social media website. The report had also been clearly edited from that as originally broadcast. The Inquiry's rationale for not granting that individual protective measures are unclear.*	This assertion is inaccurate. The ruling in relation to the application referred to states the Inquiry's reasoning for refusing the application, although the detail behind the application (which was heard orally during a private hearing) has not been published in order to protect the privacy of a witness by not disclosing other relevant personal data. It may be that the media report is no longer available online, but at the time that the application was made (in February 2015), the report was available in the "public domain" as defined by the Inquiry in its ruling on 24 October 2014, the definition of which does not include non-regulated media (e.g. social media websites). (para 92)
133 (i)	*Certain documentation pertaining to an alleged victim was projected onto a screen during the course of public hearings that it bore, in handwriting, the name of that victim in the top corner of the document (notwithstanding the fact that the victim benefits from anonymity). The document apparently remained on view for a significant length of time and also notwithstanding that the rest of the document had been appropriately redacted.*	The Inquiry has no knowledge of its attention being drawn to such a problem and cannot respond without further details being supplied. (para 93)
133 (ii)	*The Commissioner understands that the Inquiry does not always provide the 5 days' notice that particular document is going to be used in proceedings that it is required to do under paragraph 22.3 of the DP Protocol and this has given rise to significant failings in the redaction process which cannot be timeously address by the document providers.70*	This is dealt with in detail at para 60 of the Inquiry Response. The Inquiry accepts there have been times when the usual five day timescale has had to be shortened e.g. late disclosure by providers of a document which is needed for a witness who is about to give evidence. If the five day timescale had been strictly adhered to on each occasion, this would have resulted in numerous adjournments, wasted hearing days and a significant extension of the Inquiry's hearings, with significant cost implications. (para 93)
133(iii)	*As by failing to operate within its own protocols in respect of the timeous disclosure of documents we are given little or no notice that the Inquiry is going to use particular documents, so we are concerned that redaction problems only become apparent after a breach may have been committed*	This is a claim by an anonymised party. The Inquiry accepts that it has not always met the five day timescale for the reasons discussed above. (para 93)

133 (iv)	*The Inquiry's rate of what we consider to be inappropriate disclosure of personal data appears to be unreasonably high and even when they have been identified by third parties, issues have not been remediated with due expediency.*	It is not possible for the Inquiry to comment in any meaningful way in relation to this general and un-particularised comment without any specific details. However, whenever redaction concerns have been raised with the Inquiry, they have always been dealt with as quickly as possible and the examples used throughout the Report specifying the timescales in which responses were received demonstrates this. (para 93)