

## **British Virgin Islands Commission of Inquiry**

### **The Commissioner's Opening Statement for Press Conference**

**Friday 22 January 2021**

1. You all have the Terms of Reference of the Commission of Inquiry which I have been appointed to conduct under the Territory's Commissions of Inquiry Act. These are to consider whether corruption, abuse of office or other serious dishonesty may have taken place amongst public, elected and statutory officials in recent years.
2. As the Governor has said, this independent Inquiry has been called in the light of increasing concern about the governance of the BVI, which includes allegations in respect of transparency around public spending and contracts, political interference in statutory bodies, and a growing climate of fear and intimidation. If true, such matters could risk undermining democracy itself. It is in those circumstances that I have agreed to undertake this Commission - for the benefit of the BVI and all who live and work here.
3. Although as Commissioner I have considerable powers, the Commission is not a court of law. Under the Terms of Reference, it is not part of my role to ascertain whether individuals in public office have been guilty of a crime or some other form of serious dishonesty. I am required to consider all of the information submitted, and make findings as to whether anyone in public service here *may* have been guilty of corruption, abuse of office or other serious dishonesty in relation to their service. If I conclude that there is nothing possibly amiss with the governance of these Islands, I will say so; and that will be the end of it. But, if I find there is some possible substance to the concerns, then, as the Terms of Reference require, I will have to consider what might be done about them, and make recommendations for action, for example in terms of whether criminal proceedings might be brought against any individuals. It would then be for the criminal courts to determine whether crimes have been committed. However, I am able to make all sorts of other recommendations, if I consider them to be appropriate in light of the findings I have made, for example recommending tightening up the controls over administrative processes.
4. I was sworn in as Commissioner this morning, and my work begins today. I will be supported by a team, including the Secretary to the Inquiry (Mr Steven Chandler, who has already been appointed and who is here), and also the Solicitor and Counsel to the Commission (both shortly to be appointed). Once the full team is in place, we will be able to consider our detailed procedures, which will be placed on our website.
5. But I can say this now, the Terms of Reference require me to report within six months, that is by July. Given the nature of the concerns and that timeline, we must press forward with all speed; and that is what I propose to do.
6. The crucial first step is for anyone with information that might assist the Inquiry to send that information and any written material in support to the Commission so that I can consider it. You may send information in any form; but perhaps the easiest way for the

public to get in touch is electronically. From today, there will be an independent and secure Inquiry website ([bvi.public-inquiry.uk](http://bvi.public-inquiry.uk)) which will not only have information about the Inquiry, but will have a portal by which anyone can raise queries and submit information which falls within the Terms of Reference and which they consider may be helpful. Other means of sending in information will be put on to the website, and will include email, WhatsApp and, for those who would prefer to do so, there will be a postal address in the UK to which you can send information by post or courier. We are currently working on whether we can have a sufficiently safe and secure drop box here.

7. I strongly urge members of the public – the website is now live - and the public service to engage with the Inquiry, and particularly to use the website. This is your Inquiry, and I would like to hear from you and encourage you to get in touch. Over the next couple of weeks, I will be inviting a number of people, whom I believe might be able to assist the Inquiry, to come and talk to me; and we propose holding sessions at various locations on Tortola and on the sister islands to give people an opportunity to come and speak to me. Details of these sessions will appear on the website. However you wish to engage with the Inquiry, perhaps by another means or privately, let us know, and we will do what we possibly can to accommodate you.
8. I hope that the vast majority of information to which I have referred will be sent to us over the course of the next month or so, so that we can move on to the next stage of the Inquiry; but, if anyone needs more time, then again tell us and we will accommodate you if we possibly can.
9. I know from the correspondence I have already seen that some people feel afraid of coming forward to make their concerns known. Those are people who have the right to be heard. I have therefore set up a rigorous system for honouring and ensuring confidentiality. The website asks anyone providing information whether he or she wishes the information and their identity to remain confidential. If they do, then the information will not be shared outside of the Inquiry Team and will be treated in strictest confidence. Whether or not given in confidence, any evidence given to the Inquiry is, by virtue of the Act, in any event absolutely privileged and cannot be used in any court against the person giving it - as distinct of course from against any other person - in any civil or criminal proceedings except those for perjury and contempt within the Inquiry itself. That does not of course mean that all witnesses are immune from subsequent criminal proceedings, if there are any, prompted by other evidence arising in the Inquiry.
10. Once the initial wave of information has been submitted to the Commission, I will then need to decide how, and from whom, to seek further information. The Act provides me with extensive powers to collect information and summon individuals to provide information if that is required. We may make contact of course with those who have provided information to ask for further details; or contact individuals implicated by the information we have received – although, I stress, without disclosing the information's source where that is confidential.
11. I expect our focus to be on the written material that we obtain. However, I will consider whether it would be helpful to have oral evidence from any witnesses, particularly to ensure that any individuals implicated have a full and fair opportunity to respond. I

propose to hold any hearings here, shortly after Easter and in any event to be completed by the end of May. The precise details, of course, will be dependent upon the course of the Covid-19 pandemic and any restrictions that may be in place as a result of that. Covid-19 Protocols will of course be fully observed by my team and all those involved.

12. I will have to consider whether the hearings should be public – and, if so, whether they should be live on line – or whether parts of the hearing should be heard privately in camera. During these hearings, witnesses called may appoint their own lawyer to ask questions. I will ensure that any hearing is procedurally fair for all. As with every stage of the Inquiry, I will set out clearly in public statements and written updates on the website how each process will work.
13. I expect formal hearings to be concluded by the end of May; and the final stage of the Inquiry will be for me to write a report and make recommendations to the Governor, as I have already indicated. In doing that, I shall keep well in mind the nature of the Inquiry at this stage; and I shall concentrate on matters of real substance and importance to the present and future well-being of the Islands.
14. I very much look forward to commencing this important work; and, in anticipation, thank the people of BVI for their assistance and cooperation in performing my task.

**The Rt Hon Sir Gary Hickinbottom**  
**22 January 2021**