

BRITISH VIRGIN ISLANDS COMMISSION OF INQUIRY

PRESS NOTICE

COMMISSION OF INQUIRY – FURTHER UPDATE

The Commission of Inquiry (“the COI”) was issued on 19 January 2021 to look into whether corruption, abuse of office or other serious dishonesty may have taken place amongst public, elected and statutory officials in recent years; and to make appropriate recommendations as to governance and the operation of the law enforcement and justice systems in the BVI. The Rt Hon Sir Gary Hickinbottom is the sole Commissioner.

The press Statement issued yesterday by the Premier Hon Andrew A Fahie has been brought to the Commissioner’s attention; and he would like to confirm the position with regard to live streaming COI hearings. The default position is that hearings will be live streamed. However, in respect of all hearings to date (including the hearing on 18 May 2021 at which the Premier gave evidence), the Attorney General on behalf of the Premier and other Ministers etc whom she represents has asked for the hearings to be held in private to ensure that the rights to confidentiality and the Ministers’ privileges, with respect to any documents or information that might be referred to, are maintained. The Commissioner is bound to respect those rights and privileges.

The Commissioner has, however, required transcripts of these hearings to be made public on the COI website as soon as the Attorney General has indicated which passages, if any, she considers it necessary to black out (redact) from the transcript, and the Commissioner has ruled on those requested redactions.

The Commissioner regrets that this procedure, required at the behest of the Ministers, has meant that the hearings cannot be live streamed, and there is an inevitable delay in making transcripts public.

The initial hearings were rendered necessary because the documents which have been disclosed by public officials appeared to be substantially incomplete and in very poor order, such that, in some cases, it was difficult or impossible to ascertain anything useful from them. At the hearing on 20 May 2021, on behalf of the Attorney General, Sir Geoffrey Cox QC, explained that checks on the disclosed documents had been made, and regrettably the documents disclosed represented the entirety of the available documents and the order in which they are in fact kept. The Commissioner has directed that the Ministers and other recipients of letters of request for documents check again and swear affidavits confirming that disclosure is complete; and an affidavit from the Attorney General (or another senior lawyer in her team) confirming that she is satisfied that all reasonable steps have been taken to give the requested disclosure. These affidavits are due to be lodged by 31 May 2021.

The Commissioner has also directed the Attorney General on behalf of the Ministers to set out their views in Position Statements on specific questions on governance he has posed to them. The Attorney General has confirmed that that will be provided by 31 May 2021. The Commissioner has made similar requests to the House of Assembly Members represented by Silk Legal, the Governor and others who have a

particular interest in governance and/or the operation of law enforcement and justice in the BVI. The invitation to provide a Position Statement allows those given the right to participate in the COI, and others with a special interest in the subjects under inquiry, a proper opportunity to set out, before further hearings take place, those matters which they say should inform the work of the COI.

Once these affidavits and Position Statements have been lodged with the COI, the oral hearings will resume. The Commissioner reiterates that it is his intention that all future hearings will be live streamed.

In the meantime, although the Commissioner appreciates that for some people live streaming will be a more convenient way in which to engage with the COI, the transcripts of the hearings to date are being published on the COI website as soon as they are available. The Commissioner knows that these transcripts are being read, with care and interest, by many who live in the BVI. He would urge all of those interested in the COI to read the transcripts as and when they can.

If anyone has information bearing upon the matters being considered in the hearings as revealed in the transcripts, or otherwise in the scope of the COI, who has not yet submitted it to the COI, they are asked to submit that information directly to the COI as soon as possible. As well as the secure website portal (www.bvi.public-inquiry.uk), the COI has provided a number of different and secure ways for individuals to share information with the Inquiry Team, including a dedicated email address (contactcoi@bvi.public-inquiry.uk), a WhatsApp phone number for messages or audio/video calls (+1 284 340 9078), and a UK postal address (The Secretary, BVI Commission of Inquiry, Room RB 1.11, 22 Whitehall, London SW1A 2EG). Please be assured that all information will be received and held in strict confidence, and will not be disclosed to anyone outside the COI team without the express authorisation of the person giving the information. The fact that hearings are public does not detract from that assurance.

Steven Chandler
Secretary to the Commission

21 May 2021