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INQUIRY INTO THE CITY OF PERTH

PUBLIC HEARING - DAY 94

MONDAY, 26 AUGUST 2019

INQUIRY PANEL:

COMMISSIONER ANTHONY (TONY) POWER

COUNSEL ASSISTING:

MS KATE ELLSON

COUNSEL APPEARING:

MR PETER van der SANDER (Ms Lisa-Michelle SCAFFIDI)

MR DARREN RENTON (Mr Gary STEVENSON)

MR ALAN SKINNER with MR PURDY (Mr Dimitrios LIMNIOS)

.26/08/2019

HEARING COMMENCED AT 10.28 AM:

5 COMMISSIONER: I will begin with an Acknowledgment of Country. The Inquiry into the City of Perth acknowledges the traditional custodians of the land on which it is conducting this hearing, the Whadjuk people of the Noongar Nation and their Elders past, present and future. The Inquiry acknowledges and respects their continuing culture and the contribution they make, and will continue to make, to the life of this City and this region.

10 Ms Ellson, do you open the case in Part B?

MS ELLSON: I do.

15 COMMISSIONER: Thank you.

MS ELLSON: Commissioner, in this second block of public hearings the work of the Inquiry will shift its focus towards the relationships between the Council, its Elected Members, the Chief Executive Officer and other employees of the City, while remaining focused on the adequacy and competency of Council
20 decision-making.

In order to appreciate the work of the Inquiry in this block of public hearings, it will be necessary to have some appreciation of the roles and functions of the Lord Mayor, the Elected Members and the Chief Executive Officer of the City of Perth.
25 The role of the Lord Mayor of the City of Perth is an important one and it is unique to Perth City. The Lord Mayor is expected to provide leadership and guidance to the City of Perth Council, speak on behalf of the City of Perth and to act as an ambassador for the City in hosting international delegations.

30 The Lord Mayor is the leader of the Local Government's Council. It is, therefore, absolutely imperative that the person holding this title strictly adheres to their formal declaration to duly, faithfully, honestly and with integrity, fulfil the duties of his or her office for the people.

35 The Chief Executive Officer (CEO) is the only staff member who is appointed by the Council and Council are responsible for managing the CEO's performance. The CEO is the linchpin of the Local Government and is responsible for managing the day to day operations of the Local Government, the employment and management of employees, ensuring that Council decisions are implemented, and
40 providing advice to Council. The Chief Executive Officer is the leader of the Local Government's Administration.

The Council governs the City of Perth's affairs and is responsible for the performance of the Local Government's functions. The Council oversees the
45 allocation of the City's resources and finances and determines policy.

The City's Elected Members make up the Council and represents the interests of

electors, ratepayers and residents. Their role is to provide leadership and guidance to the City of Perth community and to facilitate communication between the community and the Council. They are not administrators and neither the Council, nor the Elected Members have any role in managing the day to day affairs of the Administration. That is done by the employees of the Local Government. This division is a critical one and must be maintained. Whether it has been by Councillors will be a matter the Inquiry will be examining.

For this reason, the relationship between the Lord Mayor and the CEO is a critical one. To maintain an appropriate division between the Administration and Council, the Lord Mayor and the CEO must respect each other's independent role and functions.

On 20 January 2016 Mr Gary Stevenson's employment as CEO of the City of Perth was terminated. His departure was of interest to a number of journalists and the Lord Mayor addressed the media outside Council House the same day. The Corruption and Crime Commission conducted a preliminary investigation and uncovered no evidence of serious misconduct by any elected official or current or former officer of the City of Perth in relation to his departure. However, the circumstances in which Mr Stevenson left the City remain unclear and this Inquiry will closely examine why it was that the Council unanimously sacked a CEO who appeared to be doing his job extremely well.

On the same day Mr Stevenson departed, Mr Martin Mileham was appointed Acting CEO. Mr Mileham acted in the position for six months before the position was advertised. This gave Mr Mileham the opportunity to gain relevant experience in the role. On 1 September 2016, Mr Mileham was appointed CEO of the City on a five year contract. This Inquiry will be examining how that came about.

Turning to matters of City Planning and Heritage. Under the Heritage Act 2018, the Heritage Council of Western Australia is responsible for managing the State Register of heritage places (a Heritage List). Examples of buildings on the State's Heritage List are the Old Court House and Supreme Court Gardens, and Perth Town Hall. By reference to the Planning and Development Act 2005 and the City of Perth's own Local Planning Scheme, known as City Planning Scheme No 2 or CPS 2, the City of Perth is responsible for registering properties on its own Heritage List, a Heritage Register. For example, the Motor House in Milligan Street, constructed in 1936, provides an example of a garage-type building constructed to house what was then the new technology of a motor car.

Places of heritage significance give us a sense of our cultural identity. They are protected to be passed on to future generations. In March 2015 the City began a process to consider the Grand Central Hotel for potential listing on the City's Heritage Register. It was a building worthy of consideration as it was built in the 1900s. The Lord Mayor and her husband had a significant financial interest in the property. The process was overseen by the City's Administration which made recommendations to the City's Planning Committee, whose recommendations, in

turn, were made to Council.

5 The property proceeded through the process with a number of other properties. In March 2016 the property remained grouped with two other properties, both of which were finally dealt with at a Council meeting on 19 July 2016. However, the Grand Central Hotel was not formally registered until May 2018. The Inquiry will examine the reasons for the delay, who or what caused it and whether or not it was in the interests of the Lord Mayor and her husband to have that delay.

10 The final topic to be covered during this block of hearings concerns the behaviours of the Council, its members and employees towards each other. The Local Government (Rules of Conduct) Regulations 2007 (Rules of Conduct Regulations) set out general principles to guide the behaviour of Council members. Among other things the Rules of Conduct Regulations propose that:

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A person, in his or her capacity as a Council member, should act with honesty and integrity, treat others with respect and fairness, and be open and accountable to the public.

20 Alongside the Rules of Conduct Regulations, within its Council Policy Manual, the City has its own Code of Conduct. The City's Code of Conduct sets out the standard of ethical and professional behaviour the City expects from its Elected Members and employees. It deals with what is expected of Elected Members and employees and the ways which they should behave. It is designed to ensure they do not misbehave or misconduct themselves.

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In June 2017 the City's Code of Conduct was amended to insert provisions specifically relating to bullying. The Inquiry will examine why this occurred. What happened afterwards will also be the subject of evidence which will lead into the subject matter to be covered in the next block of public hearings.

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I intend to conclude my opening remarks by reiterating some of the closing remarks made by my learned colleague, Mr Urquhart. This Inquiry has had to expend valuable hearing time getting witnesses, who had sworn or affirmed to answer questions and tell the truth, to do exactly that: answer the questions and tell the truth. The process will run more efficiently if witnesses do what they are required to do. If a witness deliberately does not answer questions or continuously gives untruthful answers, that could reflect poorly on the credibility or reliability of their account, and it has the potential to extend beyond the subject matter the question relates to.

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Should a witness give evidence about a matter that is contradicted by evidence from another witness, where one witness has shown a propensity to be untruthful or non-responsive and the other has not, this will be taken into account when deciding which account should be preferred over the other. In short, witnesses must understand, untruthful or evasive responses can actually do them more harm than good. Whatever gain a witness thinks he or she will obtain by not giving

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truthful and responsive answers will be extremely short-lived. Questions that remain unanswered will be repeated over and over again until a responsive answer is given.

5 The Inquiry has learned that two people can give evidence about exactly the same thing and say something completely different. The following two weeks will be devoted to delving into the matters I have described, in an effort to put rumours to rest, to uncover the truth and to sort fact from fiction.

10 That concludes my opening address, Commissioner.

COMMISSIONER: Thank you, Ms Ellson. I will now adjourn the Inquiry for a short time before the first witness is called.

15 (Short adjournment)

HEARING RECOMMENCED AT 11.01 AM.

20 COMMISSIONER: Ms Ellson, before you call your first witness, I will make an order for suppression of certain information.

25 Pursuant to section 19B subsection (5)(c) and (d) of the Royal Commissions Act 1968 which has effect pursuant to section 8.20 of the Local Government Act 1995, the Inquiry Panel orders that publication of any personal information of any person referred to during the evidence given, or contained in any documents displayed during public hearings of the Inquiry during the period 26 August 2019 to 6 September 2019, is prohibited.

30 In this order "personal information" means (a), particulars of any person's contact details, including but not limited to his or her residential addresses, the addresses of any residential or commercial properties in which he or she has an interest, post office box numbers, telephone numbers or email addresses; and (b), any person's bank account numbers.

35 That order will be published on the Inquiry's website.

Ms Ellson, do you now call your first witness?

40 MS ELLSON: I do, Commissioner.

COMMISSIONER: Thank you.

MS ELLSON: I call Lisa-Michelle Scaffidi.

45 COMMISSIONER: Thank you. Ms Scaffidi, please come forward and take a seat in the witness box on my left. Thank you, Ms Scaffidi. I will have Ms Scaffidi sworn and then I will hear applications.

Ms Scaffidi, do you wish to take an oath or make an affirmation?

MS SCAFFIDI: Oath.

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COMMISSIONER: Thank you. Madam Associate.

MS Lisa-Michelle SCAFFIDI, sworn:

10 COMMISSIONER: Thank you. I will now hear applications.

MR van der ZANDEN: May it please you, Commissioner. I seek leave to represent the witness, Ms Scaffidi. An application was made dated 18 August 2019.

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COMMISSIONER: I've read the application, thank you. Ms Ellson, is there any objection?

MS ELLSON: No, Commissioner.

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COMMISSIONER: In that case, leave is granted to you, Mr van der Zanden, to represent Ms Scaffidi for this public hearing and any extension of it

MR van der ZANDEN: If it please you, Commissioner.

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MR RENTON: May it please you, Commissioner. I seek leave to appear for Mr Gary Stevenson. An application was filed last Friday.

COMMISSIONER: Mr Renton, thank you. I have also read your application. Ms Ellson, is there any objection to it?

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MS ELLSON: No. I note the limited basis of the grant of leave, Commissioner, and don't object.

35 COMMISSIONER: Thank you, very much. Mr Renton, in that case, leave is granted for this public hearings and any extension of it for the limited purposes set out in your application.

MR RENTON: Thank you, Commissioner.

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COMMISSIONER: Ms Ellson, are you ready to proceed?

MS ELLSON: I am.

45 COMMISSIONER: Please do.

MS ELLSON: Ms Scaffidi, have you ever referred to Gary Stevenson as

Satan?---Definitely not.

That wouldn't be fitting of a Lord Mayor, would it?---I don't use that word.

5 It wouldn't be fitting of a Lord Mayor, would it?---No.

Have you ever referred to the termination of Gary Stevenson as "like slaying Satan"?---No.

10 It's not fitting of a Lord Mayor to do that, is it?---No.

Mr Stevenson's obligations to report matters to the CCC were the subject of discussion amongst the Elected Members from the beginning of his appointment, weren't they?---Correct.

15

You were among those that had concerns about him potentially reporting you to the CCC?---Not concerns about him reporting, just concerns with his comments at times.

20 Mr Stevenson was very strong on governance, wasn't he?---I don't agree, no.

Mr Stevenson liked to follow the rules, didn't he?---Yes

[11.15 am]

25

Mr Stevenson, encouraged Elected Members to follow the rules, didn't he?---Yes.

And if an Elected Member was not doing something that Mr Stevenson thought they should do, he would tell them, wouldn't he?---I presume he would tell them.

30

Did he tell you?---Yes.

The CCC was the subject of some comments by Elected Members in Mr Stevenson's six monthly Performance Review, wasn't it?---Correct, yes.

35

Did you make comments in relation to the CCC in Mr Stevenson's six monthly review?---No, they were not attributable to me.

40 Did you make comments about the CCC in Mr Stevenson's six monthly review?---I don't believe it was me making comments about the CCC in the six month, or the latter reviews, it was another Councillor - other Councillors perhaps.

I would like you to be shown a document now, Ms Scaffidi. 14.1903. Do you see on the screen, Ms Scaffidi, an email from you to Elected Members?---Yes.

45

Dated 7 June 2013?---Yes.

It purportedly attaches Mr Stevenson's six month appraisal?---Okay.

If you turn the page, please, to 14.1904. Do you see here, Ms Scaffidi, the "CEO Performance Review - outcome of survey"?---Yes.

5

And that's been completed by Lester Blades?---Correct.

They were an external executive search and selection agency?---Correct.

10 Yes?---Yes.

And you employed Mr Blades to complete the Performance Review for Mr Stevenson?---Yes.

15 Madam Associate, could you turn, please, to page 14.1911. Ms Scaffidi, under the heading, "This comment relates to a D rating", do you see the words:

Gary's priorities are different to those of the Councillors. He is not watching our backs like previous CEO did.

20

?---Sorry, is that in the first paragraph?

Under the heading, "This comment relates to a D rating"?---Sorry, I'm with you now, yes.

25

:

I find him cold and aloof from us. Too much about his personal relationship with the State Government. Needs to get in the City's corner. Looks like he is busy protecting himself and not protecting our interests. Why does the answer so often have to be the CCC or the Ombudsman or an external review, just deal with it!

30

?---Okay.

35

Are they your comments?---I don't recall all of those comments as being my comments. My recollection is that there were a couple of other Councillors sharing the concerns of a few about his regular reference to the CCC in what appeared to us to be almost threatening - - -

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COMMISSIONER: Ms Scaffidi - - -?---And I did say - - -

Ms Scaffidi, just pause for a moment please. Do you remember what the question was?---Yes.

45

What was it?---Were they my comments.

Thank you. Just answer that question, please?---Okay. No.

It will save a lot of time?---Okay.

5 MS ELLSON: Is your answer no?---One of those comments I would accept could be attributed to me.

Which one?---I don't believe verbatim but I believe "watching your backs", said in the perspective of governance being correct.

10

So at the time Mr Stevenson had his six monthly review, you considered Mr Stevenson was not watching your back, is that right?---If I'm not able to elaborate, I will just say yes.

15 COMMISSIONER: What you're able to do and what I would like you to do, Ms Scaffidi, is listen carefully to the question and answer the question?---I understand.

Thank you.

20

MS ELLSON: Did you expect Mr Stevenson to hold things back from external authorities if it didn't suit you?---Not at all.

25 At the time of Mr Stevenson six monthly review, did you agree with the last comment, "Why does the answer have to be the CCC or the Ombudsman or an external review, just deal with it"?---My answer - it's not a yes or no question so my answer would be that - - -

Your answer is?---Would be no, because - - -

30

Is your answer no?---My answer has to be no if I'm not allowed to elaborate.

Is your answer no?

35 COMMISSIONER: Ms Scaffidi, I need to clarify the process in this Inquiry for you again. This Inquiry proceeds on the basis, as I have previously explained to you on a different occasion, that Counsel Assisting will ask you questions and you should do your best to answer those questions as truthfully and as accurately as you can. At the conclusion of Counsel Assisting's questions, there will be an
40 opportunity for your counsel, who have granted leave to, to make an application to ask further questions of you. If I am of the view that those questions advance the purposes of this Inquiry, then I will permit those questions to be asked?---Sorry, was that advance the interests?

45 The purposes of this Inquiry?---Okay.

You can be assured that you will be treated fairly but this is not an opportunity for

you to say whatever you like. It is an opportunity for matters which have been the subject of investigation by this Inquiry to be thoroughly and fairly examined.
Ms Ellson, please continue.

5 MS ELLSON: As at the time of Mr Stevenson's six monthly review, did you hold the view that Mr Stevenson, "Why does the answer so often have to be the CCC or the Ombudsman or an external review, just deal with it"?---I can't accept the full sentence. I don't know if the full sentence is verbatim and ascribed to me. I can accept part of it but not all of it.

10 Which part of it?---He always referred to other entities which didn't worry me. He had a statutory obligation, but I don't understand the "just deal with it" part at the end of that sentence.

15 COMMISSIONER: That's a fair response, Ms Ellson.

MS ELLSON: Yes, Commissioner?---Thank you.

20 Madam Associate, turning to page 14.1913. Ms Scaffidi, under the heading, "This comment relates to a C rating", as at Mr Stevenson's six monthly review, did you agree with the comment, "I don't feel he has my back"?---Look, I'm happy to agree with it but I don't - - -

25 That's the answer to the question, Ms Scaffidi?--- - - - think the context is right. Yes, I will accept it. It's colloquial but I will accept it.

30 I'm not asking you to comment on the material any further than my question, Ms Scaffidi. Madam Associate, turning to page 14.1922. Under the heading, "This comment relates to a C rating" at the bottom of the page?---May I clarify something?

No, Ms Scaffidi. I need to ask you a question?---Mm hmm.

35 Is your comment, "It is typical to mention the CCC in his answers, or an external investigation", is that you?---I don't recall in that one.

As at Mr Stevenson's six monthly review, did you agree with that sentence?---He did speak about it a lot.

40 About what?---So I'm happy to agree with it because he did reference it a lot.

When you say "reference it", are you talking about the CCC?---Correct.

45 What about an external investigation?---I don't recall that.

As at Mr Stevenson's six monthly review did you agree with the statement, "Not every issue is a CCC issue, just need some dialogue and strategy"?---I don't recall

specifically but I'm happy to accept it.

5 You're happy to accept that that was your view when Mr Stevenson was being reviewed for his six monthly review, is that your answer?---My recollection is this was a composite of all Elected Members' comments, not just mine, so that's what I ---

Did you share their views, Ms Scaffidi?---Yes, I shared their views.

10 Do you see there a comment:

Gary needs to be more of a statesman, present and dress like one. Dress sense is far too casual and unsophisticated. Needs to set a much more professional and sophisticated tone in the office and externally.

15

Do you see that?---Yes.

Is that something you agreed with at the time Mr Stevenson had his six monthly review?---Yes.

20

Do you consider it appropriate for Mr Stevenson's performance to be measured by reference to his personal appearance?---Yes, in a capital city context, it was comment that was coming back to me from a wide circle of people.

25 Is it your comment?---I'm happy to accept that it was my comment, yes.

30 Do you agree or is your comment, "I want the CEO to have my back"?---No. That comment was definitely a comment from Councillor Limnios and stated as such on a number of occasions. It was a consensus agreement among a few Councillors that felt similarly, not that they were seeking to be protected in any way, but guided and assisted on governance matters.

35 Is it correct that you attribute the comment on page 14.1922 with respect to, "I want the CEO to have my back" to Councillor Limnios?---That is my recollection.

You mentioned there was consensus with respect to the Councillors and Mr Stevenson not having their backs; who shared your view?---I would say unanimously shared.

40 Was that from the very beginning of his appointment?---His appointment was from 29 October 2012, so this was the six months, yes, and throughout.

There was a bit longer than six months though, wasn't it? It's June?---13 - this is the 13 or the 14, sorry?

45

This is June 2013?---Yes, 13, so it's six months.

Longer?---A bit longer.

It's nine?---Mm hmm.

5 Thank you, Madam Associate, the document can be removed. Do you recall how Mr Blades became involved in conducting Mr Stevenson's 12 monthly review?---Geoff Blades had been involved with the recruitment of Gary Stevenson, so I think it just automatically followed that we employed him to do the review

10 [11.30 am]

He provided you with a quote, didn't he?---Yes, he would have.

Yes, he did?---Yes.

15

And you considered that at a CEO Performance Review Committee meeting?---Yes.

20 Madam Associate, if the document at 14.0580 could be put on the screen. I'm sorry, Commissioner, the document starts at 14.0575.

COMMISSIONER: Thank you.

MS ELLSON: TRIM 13528.

25

COMMISSIONER: Thank you.

MS ELLSON: Do you see there minutes that have been approved for release by Mr Stevenson, dated 14 July 2014?---Yes.

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Madam Associate, if you could turn to page 14.0578. Do you see there members in attendance include yourself?---Yes.

35 The other two Councillors are members of the CEO Performance Review Committee with you, isn't that right?---Correct.

The page could be turned to 14.0580, please. Do you see there discussion with respect to some quotations from consultants?---Yes.

40 Expert in the field of executive performance appraisal?---Correct.

And among them is Mr Blades?---Yes.

Mr Blades' quote is not the cheapest, is that right?---It's the middle.

45

Can you tell me why you chose Mr Blades?---Because he had been involved in the initial recruitment, and so the CEO was known to him already and - - -

5 What difference did that make to a process whereby Council was to review the performance of the CEO?---I'm sure it helped and I think the other comment I would add is that, you're correct, it wasn't the cheapest, but it wasn't the most expensive.

Ms Scaffidi, I didn't ask you a question concerning the pricing?---Mm hmm.

10 My question was concerning your decision to use Mr Blades as the external consultant?---Mm hmm.

15 Why did it make any difference that Mr Blades knew Mr Stevenson from the recruitment?---Well, it didn't hurt. There was certainly an awareness of the employment of the CEO. He knew the man.

Were you friends with Mr Blades?---I've known Geoff Blades from around town for probably, you know - I'm trying to think back now - 10 or 15 years but we have not socialised. Corporate contact.

20 My question was, were you and Mr Blades friends?---Well, business friends, business contacts.

25 And you had had contact with Mr Blades in that friendly capacity for 10 to 15 years before deciding to use him in the process to evaluate Mr Stevenson's performance?---It wasn't my sole decision to use him.

That's not my question, Ms Scaffidi?---I understand that, but - - -

30 If you understand it, then you need to answer it?---Well, I had known him. I can't answer it any more clearly than that. I had known him from my previous roles as the State CEO of CEDA, so he had attended events there so I had seen him around.

And you knew of his work in the area of executive recruitment?---Yes.

35 And you were comfortable enough with that to engage him to appoint Mr Stevenson?---The committee were, yes.

And you were a part of the committee?---Correct.

40 Did your business friendship with Mr Blades influence your decision to appoint him as the external consultant to review Mr Stevenson's performance?---No.

45 Madam Associate, if you could turn back to page 14.0578. Do you see there under the heading, "Guests", Ms Scaffidi, "Mr Blades"?---Right, yes.

Can you tell me why Mr Blades was present?---I can't tell you why. I don't know why, I don't recall.

Do you consider it appropriate for Mr Blades to be present for a CEO Performance Review Committee meeting?---I don't consider it abnormal in that it was relevant.

5 In what sense?---Is this - I'm sorry, can I just clarify, is this - - -

No, Ms Scaffidi?---Okay. I don't recall would have to be my answer.

10 Ms Scaffidi, what made you say that it was relevant for Mr Blades to be present at a meeting of the CEO Performance Review Committee?---I don't recall.

You said it, Ms Scaffidi, why did you say it?---Because I'm presuming, so I shouldn't presume but was he there to answer questions if they were asked, or something like that. I don't recall specifically.

15

If he was there to answer questions, it would have been appropriate for the other two tenderers to be present as well, wouldn't it?---I don't know why they weren't, so yes, the answer is yes.

20 Do you see anywhere on this page an indication that Mr Blades left the meeting?---No.

There's not one, is there?---No.

25 Madam Associate, if you turn to page 14.0579. Nor is there an indication on this page that Mr Blades left the meeting, isn't that right?---Yes.

And the items, "Chief Executive Officer Annual Performance Review" appears on this page?---Yes.

30

The Manager of Governance left at 4.05 and did not return?---Right.

There's no indication Mr Blades is gone?---Correct.

35 Turning the page, back to 14.0580, there's no indication on this page that Mr Blades has left, is there?---No.

The details on this page indicate there was discussion of Mr Blades' quote, isn't that right?---Yes.

40

And two competing quotes were also discussed at the same time?---Correct.

It wasn't appropriate for Mr Blades to attend that meeting, was it?---No.

45 And yet he did?---Apparently so according to the minutes, yes.

And you as a member of the CEO Performance Review Committee appointed

Mr Blades as the external consultant on that occasion?---It appears so, yes.

And you did that in the presence of Mr Blades?---Apparently, yes.

5 Did you favour Mr Blades?---Well, I don't believe we did, but I don't recall this until I've been reminded of it now.

10 You chose Mr Blades without giving anyone else the opportunity to attend a CEO Performance Review Committee meeting?---Well, it wasn't up to me to give people the chance to attend, that would have been up to others to invite them or not.

15 Surely as the leader of the Council and as a member of the CEO Performance Review Committee, it was well within your rights to ask a question as to why Mr Blades was there and the others weren't?---If that question had been thought of, yes.

And you didn't think of it?---Didn't think of it, no.

20 You should have though, shouldn't you?---I beg your pardon?

You should have?---I can see now with the way you're pointing it out that it was an oversight and, yes, none of us picked up on it.

25 Mr Blades had never done a CEO Performance Review before, had he?---I don't know about that.

You did though, didn't you?---I don't recall that.

30 Mr Blades has indicated that you insisted that he do the Performance Review for Mr Stevenson, what do you say about that?---Well, I don't recall insisting and certainly I was one of three on the committee.

35 The other two voted with you, didn't they?---I wasn't the Chair of that committee but we clearly voted for Mr Blades.

All three of you?---Correct.

40 Mr Blades said to you, "I don't want to do it because I know Gary and I think highly of him", didn't he?---I do not recall that at all.

45 He said to you, "So there I'm not the right guy to do it, I'm biased, I'm discounting myself", didn't he?---I don't recall that at all. Genuinely, I don't. He's quoted, which indicates to me he was up to it. Whether he discounted, I don't know that.

He didn't indicate to you that he was up to it at all, did he?---I don't recall that conversation.

You insisted and Mr Blades said, "Okay, I'll do it"?---I don't recall that.

5 Did you declare a conflict of interest before appointing Mr Blades?---I did not believe a conflict of interest declaration was necessary.

10 In circumstances where you had a business friendship with Mr Blades that had extended beyond 10 to 15 years, you didn't think it was necessary to declare that?---Well, business friendship, I question the term.

15 It's yours, Ms Scaffidi?---I know it's mine but I still question the term because he had attended a lot of events for which he paid for in my previous employment, and then maybe I saw him in the street, in St Georges Terrace. I've not socialised privately with Mr Blades, ever, and so he's a business associate/friend.

20 So he's a friend, a business associate and a friend, and yet you had him attend a CEO Performance Review Committee meeting where you discussed a quote that he had made and two other quotes which were competing with his, and you have insisted that he do a CEO Performance Review of Mr Blades and you didn't declare a conflict of interest?---Well, I didn't believe there was any partiality there, so I didn't, no.

25 And that was wrong, wasn't it?---I don't agree because I didn't have a close relationship with him to that extent. If there had been some social connection, maybe so but there had not.

30 You said yourself that you were business associates/friends, so there was a social aspect to your relationship, wasn't there? It's your own evidence, Ms Scaffidi?---That he attended events at my previous employment.

That you were business associates/friends?---Well, we are using the word "friends" in different contexts.

35 We being you?---Yes, I put the word "friend" out there but you know, I would consider Mr van der Zanden a friend but he's my lawyer.

40 I'm not asking you about Mr van der Zanden, I'm asking you about a man who had never conducted a Performance Review before and who was your business friend - business associate/friend, who attended a CEO Performance Review Committee meeting, and was present during the discussion of competing quotes?---And the question is?

45 You should have declared a conflict of interest, shouldn't you?---Well, I didn't and I don't agree that I should have because I do not believe the relationship was questionable.

You decided to do the questionnaire with Mr Blades yourself, didn't you?---No.

That would have been done by the committee. I would not have unilaterally done that.

5 When I say "do", I'm talking about complete it, so I'm moving on from the meeting now?---Okay, right. Now I'm with you.

10 I've skipped ahead of you. Madam Associate, you can take down the document now, please. The process for the Performance Review - I will call it the first annual review even though that's the second review, okay?---Mm hmm. This is the 2014 one, correct?

[11.45 am]

15 Yes. The process for that was for Elected Members to fill in a questionnaire, wasn't it?---Correct.

It was similar in format to the one we have looked at for the six monthly review, wasn't it?---Yes.

20 And that was a questionnaire?---Yes.

And it wasn't really measuring anything, was it?---You're asking people to comment so it's a measure of sorts.

25 It was seeking opinions, wasn't it?---I beg your pardon?

It was seeking opinions?---Yes, which is what an appraisal is.

30 That's what your 12 month appraisal was for Mr Stevenson?---Yes.

"Your" being the Council's?---Correct.

Did you complete your questionnaire with Mr Blades together?---Yes.

35 Why did you decide to do that, rather than fill it in?---Because a couple of other Councillors undertook it that way. My recollection is Councillor McEvoy might have done it that way and in the past, we had always done it via an interview process with the person undertaking the performance appraisal.

40 I'm only asking you about what you did?---Yes.

Not the other Councillors?---Mm hmm.

45 You've agreed that you and Mr Blades completed your survey together?---We discussed and did it together, correct.

Madam Associate, if you could please be ready to turn to document 14.1444. Did

Mr Blades complete notes when he was talking to you, with respect to your views on Mr Stevenson's performance as at the first annual review?---The 2013 one now you're asking about, or the 2014?

5 2014?---I would say yes, he did.

Do you believe Mr Blades translated those comments into the final outcomes for the review?---I would have to say yes to that.

10 Madam Associate, if you could turn to page 14.1445?---Yes.

Do you see here a final CEO Performance Review, September 2014?---Correct.

It's final because it's got some handwriting on there that says that?---Yes.

15

Madam Associate, if you could bring up page 14.1447. Do you see there a comment:

20

*EMs are concerned at the CEO's use of the CCC as a 'veiled threat'.
We need to know that the CEO 'has our backs' and guides us respectfully.*

Did you make those comments with respect to Mr Stevenson's performance?---Yes, I would accept those as my comments.

25

Can you tell me why you said that?---Because I was speaking there for EMs, meaning Elected Members, plural, were concerned because the EMs were expressing it to me often enough. I also heard it in forums where we were together and you know, I look at that comment "has our backs" now as a very colloquial comment but at the time that was the view and as I have said a few moments ago, not because we were seeking any protection but because we were seeking governance guidance, which was one of the prerequisites he had championed as being a leader of at the time of his interview.

30

35 He was very good at that, wasn't he, Ms Scaffidi?---No, I disagree, given that - - -

You did say it because you wanted his protection, didn't you?---We clearly had governance holes at the City that I didn't even know about.

40 Some of those holes were yours, weren't they?---Absolutely, and systemic issues.

You mentioned the comment was attributable to the EMs plural, but it's also your comment, isn't it?---Yes, it was a plural group.

45 And you felt, as at the first annual Performance Review for Mr Stevenson, that Mr Stevenson used the CCC as a veiled threat to you, didn't you?---He did.

Isn't it a very good thing for a Local Government to have a CEO who knows his obligations with respect to reporting matters to the CCC?---Absolutely.

5 And Mr Stevenson did?---You're telling me he did, yes.

It's not a veiled threat to mention to someone that it might be a CCC matter, is it?---In the context of the conversations with which Mr Stevenson used it, it was a veiled threat.

10 You didn't take too kindly to Mr Stevenson talking to you about the CCC, did you?---Many Councillors didn't.

You didn't, did you?---I'm happy to accept that. I'm happy to accept that, not a problem.

15 Did you want to avoid your obligations with respect to reporting matters?---Never.

20 But it bothered you that Mr Stevenson might report them?---It would have been preferable to have someone ensuring that there were no systemic failings at the City of Perth and that the systems were so tight and easily understood that no-one would fall through any holes.

COMMISSIONER: What is the answer to counsel's question?---So the answer is
- - -

25 Ask the question again, please, Ms Ellson. It started with, "Did it bother you."

MS ELLSON: It bothered you that Mr Stevenson would report matters to the CCC?---No, it did not bother me.

30 It bothered you enough to make note of it in his Performance Review in 2013, didn't it?---It was contextual.

35 And it bothered you enough to comment about it in his Performance Review in 2014, didn't it?---It was contextual.

It was contextual in the sense that you were assessing Mr Stevenson's performance by reference to him pursuing governance matters?---I don't agree with that.

40 That's the only thing that makes sense, isn't it?---It was contextual. It was also like telling the media to FoI Councillors - contextual.

It was contextual in the sense it was part of Mr Stevenson's Performance Review process, wasn't it?---I don't accept that.

45 Madam Associate, if you could bring up 14.1452, please. Do you see here, "Outcome 5 - management of change and risk", Ms Scaffidi?---Yes.

You see here in the, "Summary of comments", and in the last paragraph it says

5 *In several discussions with EMs mention was made of the CCC. EMs
openly critical to GB - - -*

Geoff Blades, I take it that to be?---All right.

:

10

*Of the fact CEO raises this seemingly as a veiled threat and a way of
resolving matters. Several EMs clearly very unhappy about this. EMs
believe attempts should be made to resolve matters in-house where
possible.*

15

Did you make those comments to Mr Blades during Mr Stevenson's first annual
review?---I'm happy to accept that, yes, definitely.

20 Do you accept then that you would have preferred Mr Stevenson to resolve matters
properly reported to the CCC, in-house?---You know, again, you're being - I'm not
able to expand but I will say this: revolve in-house not matters that should be
statutorily reported, but to obviously ensure that the systems were better than they
clearly were.

25 You can't separate the comment "believe attempts should be made to resolve
matters in-house where possible", from the fact that the matters Mr Stevenson was
talking about were CCC matters, can you?---I'm happy to let your interpretation go
through because - - -

30 I'm asking you a question, Ms Scaffidi?--- - - - I don't know if they were CCC
matters all the time. He was using the term CCC often, without any specific
mention of individual matters per se. So again, it's a generic, contextual
conversation. It's hard to be specific unless you could give me an example, which
I don't think for the sake of this appraisal, examples were necessarily given. So it's
35 very hard to be specific from a four line document - five line document.

Mr Stevenson was mentioning the CCC often, as you've said?---He was.

40 Because he found matters that needed to be reported to the CCC, didn't he?---He
didn't have to tell me if he was reporting to the CCC so I can't answer that
definitively. I only know that - well, from, you know, keeping my issues of travel
breaches out of this discussion, there were other breaches and I agreed he had a
statutory obligation but that wasn't what was intended by the Elected Members',
plural, comments. He was - - -

45

You can't speak on behalf of the Elected Members, can you, Ms Scaffidi?---They
were complaining to me so I know what they were complaining to me about.

You can't speak on behalf of them though, can you? I'm asking you about you?---Okay.

5 You considered that Mr Stevenson should resolve CCC matters in-house, didn't you?---No. That is extending the comment there out of context. That is absolutely incorrect to say that we would have expected him to do that, and in fact, I know he didn't.

10 It says here, and you've accepted this as your comment that "The fact CEO raises this" - being the CCC - "seemingly as a veiled threat" and a way of resolving matters which links into the concept, "several EMs", which you are one of "clearly very unhappy about this. EMs believe attempts should be made to resolve matters in-house where possible."

15 They link together, don't they?---The term "veiled threat" was first used by Councillor Limnios. I know - - -

I'm not asking you about Councillor Limnios?---I know you're not.

20 My question was, those three things I read out to you link together, don't they?---Only link together because they are written consecutively as sentences in that last paragraph.

25 And you have adopted those as your comments?---We have, yes.

You have?---I'm happy to.

You did?---Mm hmm.

30 And these three things can't be separated, can they?---They can be expanded on but I'm happy for them to stay as they are here.

And as they stand - - -?---Correct.

35 - - - not separated, it reads as though you, being an Elected Member, considered that Mr Stevenson's veiled threat to take someone to the CCC should be resolved in-house, doesn't it?---There's a misinterpretation of "attempts should be made to resolve matters in-house" for the sake of this conversation but as it's already there
40 in black and white and was written five years ago, I can't do anything about that now.

Ms Scaffidi, you didn't answer my question, again?---Mm hmm.

45 The three statements here, "EMs openly critical to Mr Blades of the fact CEO raises this seemingly as a veiled threat", the CCC, and a way of resolving matters, "clearly very unhappy, EMs believe attempts should be made to resolve matters

in-house" means that you as an Elected Member wanted Mr Stevenson to resolve potential CCC matters in-house?---No, it does not mean I wanted Mr Stevenson to resolve CCC matters in-house, it meant we wanted him to tighten up on Gift Declarations and other declarations - - -

5

And he did, didn't he?---Not for the first few years. He didn't do it until 2015.

Isn't that because you didn't cooperate?---Absolutely not. He didn't even bring up the matter until after my - - -

10

[12 noon]

Mr Stevenson brought up the matter up?---No, he did not.

15

He brought it up as matters potentially for the CCC. You've said so in your Performance Review?---If I may expand on my answer, the issue is, he did not introduce Gift Declaration forms until, I believe, late 2014, and that was also the first time we actually saw another document attached to the annual return which I had never seen previously, called, "Financial implications", I think. No. So it wasn't until clearly much later in his tenure. He knew it was something we had discussed at the beginning of his employment and during his interview. That is a summary statement of a collective group of feelings. I am happy as the Lord Mayor to accept that we signed off on it.

20

25

You mentioned Mr Stevenson implemented a system of Gift Declarations late in 2014, isn't that right?---Yes.

That was shortly after his first annual Performance Review?---Yes.

30

So it seems so though he's taken on board the comments of Council, doesn't it?---It was more - the exact date, I don't recall. It might have been more towards 15. Maybe you can tell me the exact dates from your documentation.

35

My question was, and you didn't answer it, it seems as though Mr Stevenson took on board the comments of the Council in their Performance Review?---No. I don't entirely agree. It was not that much of an acceptance of the Council's views, it was more when my issues started to become apparent that the Gift Declaration issue was topical and introduced.

40

And they were CCC matters, weren't they?---Correct.

Madam Associate, if you could bring up, please, 14.1579. Ms Scaffidi, do you recall putting together Mr Stevenson's Performance Review for use at a Council meeting?---Do I recall, sorry, say that again?

45

Collating Mr Stevenson's Performance Review with a view to putting it to Council, in around October 2014.

5 COMMISSIONER: Just focus less on what's in front of you, Ms Scaffidi, and more on the question, that might be helpful. Look at counsel, rather than trying to read what's on the screen at the moment?---Is it relevant - it's not relevant to the screen?

Ms Ellson, please ask the question again and I'm sure Ms Scaffidi will answer it, this time.

10 MS ELLSON: Ms Scaffidi, do you recall compiling Mr Stevenson's Performance Review so it can be put to Council in around October 2014?---It was usually done in October so I'm happy to say yes to that.

15 You hadn't done an annual Performance Review for Mr Stevenson as yet, so you can't say that it was usual, can you?---Well, they were annual.

But it wasn't usual, it was annual?---Well, it was his first annual but all CEOs have an annual appraisal.

20 Mr Stevenson's annual appraisal fell due in October 2014, didn't it?---Yes.

In the document in front of you, do you recognise that as an email from Mr Stevenson to you and the committee members, the CEO Performance Review Committee members, attaching suggested amendments to his CEO Performance Review finding?---I don't recall it but it's there so I've seen it again.

Does this refresh your memory?---Yes.

30 If we could turn to page 14.1928, please, Madam Associate. Do you see here a tracked changes document?---Yes.

Mr Stevenson has inserted the first paragraph, do you accept that?---You're telling me, yes, I'll accept it.

35 And the two insertions into the second paragraph, can you see blue there?---Yes.

He's inserted those, do you accept that?---Yes.

40 Madam Associate, if you could turn to 14.1929. Do you see there a third paragraph?---Yes.

And there's a deletion of "has our backs and"?---Yes.

45 And the next paragraph, there's an insertion and then a deletion at the end of the paragraph?---Yes.

Do you see at the end Mr Stevenson has inserted, I suppose a summary or a final

paragraph into the document?---Yes.

5 There's nothing here that leads you to think Mr Stevenson has made any, I suppose, unsatisfactory changes, is there?---The deletion of the last sentence on the second last paragraph is something that was a very strong comment made by a number of people across the organisation.

10 That comment did not need to be made to Council when - - -?---Fair enough, okay. - - - accepting the Performance Review, did it?---Well, it became - - -

You said "fair enough", Ms Scaffidi?---Yes, I'm accepting it, I'm happy to.

15 There's nothing here to cause you to think that Mr Stevenson's being dishonest?---Well, I repeat, why did he have a problem with the last sentence of the second last paragraph?

Deleting that is not dishonest, is it?---Sometimes truth can hurt, so - - -

20 Deleting that is not dishonest, is it?---It's not transparent either.

It's important for things to be transparent in Local Government, isn't it?---Yes.

25 In fact, on many occasions, it's essential, isn't it?---Correct.

Ms Scaffidi, did you tell the members of the CEO Performance Review Committee, and Mr Blades, the external service provider, that "you", plural, "let him doctor his appraisal"?---That was the comment on the previous page. Well, I did say that and I have not known of any amendments being made in an appraisal once it had been drafted.

30 Mr Stevenson didn't doctor his appraisal, did he?---Well, you told me when you asked me the questions that these amendments were made by him.

35 He didn't doctor his appraisal, did he?---Well, it's an amendment.

An amendment is not doctoring, is it? You know that?---It's amending, it's doctoring, it's the same thing.

40 It's not, Ms Scaffidi, by any stretch of the imagination, is it?---It's a choice of word.

And you used the word "doctor" his appraisal when describing what Mr Stevenson had done to his Performance Review?---It's my opinion.

45 And your opinion of Mr Stevenson was harsh, wasn't it?---My opinion of Mr Stevenson was that he was a nice person, but he wasn't a great fit for the organisation and that was shared by a number of people.

Your view of Mr Stevenson in doctoring his appraisal was harsh, wasn't it?---No. You're putting that word "harsh" to me.

5 You overstated it, didn't you?---No, I don't accept your choice of words.

A second annual Performance Review was done for Mr Stevenson, wasn't it?---In 15?

10 Yes, in 15?---Correct.

Did you again indicate that you didn't feel that Mr Stevenson had your back enough?---Look, that phrase was used by a number. Again, I can't - - -

15 I'm asking you about you, not anyone else?---Fair enough. I would say by 2015, the relationship with Gary was difficult for me, and a number of people. I know I'm only speaking for me.

20 Yes, please. The relationship was difficult by 2015 because Mr Stevenson had implemented his gift register and you weren't working very well with him about it, were you?---Absolutely not and I find that very disrespectful to me personally and as the Lord Mayor. I have no problem with declaring any items to do with the role and that has been proven at the SAT and I find that really wrong to say that.

25 Ms Scaffidi?---There were no systems in place.

Ms Scaffidi, I asked you a question?---Yes.

You're in a witness box, you're not on a soap box?---I know where I am.

30

Yes, and you need to answer the question?---Mm hmm.

35 My question was that your relationship with Mr Stevenson was struggling because of his wish to complete the gift register, wasn't it?---Absolutely not. It was struggling - - -

Ms Scaffidi - - ?---No, the answer is no.

40 Ms Scaffidi, I heard your answer, thank you. I had moved on?---Good.

The first or the second annual Performance Review, I'm sorry, was not done by Mr Blades, was it?---Correct, not done.

45 And it wasn't done by Mr Blades for what reason?---I wouldn't have made that decision on my own. My recollection of it was, Mr Stevenson asked me two, if not three times during early 2015, for a renewal of his contract. The first time he asked me, I must have been busy and I didn't really pay much credence to it.

Ms Scaffidi, I'm struggling to know how Mr Stevenson's request for an extension to a contract relates to my question?---He was only two and a half years into his first contract and I found it odd, once I dawned on the date of the request and so
5 the - - -

Ms Scaffidi, I asked you about Mr Blades, why did you not use Mr Blades?---I don't recall why we didn't use him. I think - - -

10 COMMISSIONER: That's the answer then?---Yes, that's the answer.

Thank you.

15 MS ELLSON: Instead, Councillor Davidson constructed a questionnaire for Elected Members to use, didn't she?---Yes, that's right.

And that was a questionnaire again seeking the opinions of Elected Members?---Correct.

20 There were no measurements of performance in the questionnaire, were there?---I would have to have a look at the full questionnaire to be able to answer that. My recollection is it was more opinion based.

25 Madam Associate, could you please bring up on the screen 14.0818. Do you recognise the handwriting on the page as your own?---Correct, it is my handwriting.

30 Thank you. And your initials, LS?---They are not my initials, it's just printing, yes. They are my initials, but they are just printed initials.

That's not your handwriting though, is it?---It is my handwriting.

35 LS?---I don't know if the LS is my handwriting, to be honest. I think it might not be my handwriting.

You recognise - - -?---I would have done it a different way up the top but yes, the handwriting is mine.

40 Do you recognise this as Mr Stevenson's second annual Performance Review that you've completed?---Yes.

If we can turn, please, to page 14.0825?---Mm hmm.

45 [12.15 pm]

Again here we see:

We do not feel that Gary has our back enough, if at all.

5 ?---Yes.

You've used the word "we" there?---Yes.

That includes you?---Correct.

10

So still with respect to Mr Stevenson, to his 2015 review, you believe he didn't have your back?---Yes, and that doesn't relate to CCC exclusively, it relates to a number of things in the context of the organisation.

15 Ms Scaffidi, referring to someone as "having your back" means that they play on your team, doesn't it?---It's a colloquial expression and I wished I hadn't used it, if I had known we would be looking at it four years later, but I believe it was used in the context of helping us ensure that we were meeting our obligations adequately, systems being in place that weren't in place and a more professional working
20 relationship, as in more conversational, as in more understanding.

It doesn't mean any of those things at all, does it? You could have written it differently?---Well, I believe it does.

25 You could have written it differently if it did, do you accept that?---I could have done a lot of things differently with the benefit of hindsight.

COMMISSIONER: We are just concentrating on these things at the moment?---I understand that, Commissioner.

30

Ms Scaffidi, I know you have a very good understanding of many things but what I would like you to do, please, to assist me - - -?---I understand.

35 Don't interrupt me, please - is concentrate on the question that counsel's asking you?---I am.

Thank you.

40 MS ELLSON: I am going to ask my question again because you didn't answer it, Ms Scaffidi?---Mm hmm.

The expression "have your back" means that the person doesn't play on your team, doesn't it?---No, it didn't mean that in the way I had written it.

45 It means that they are not protecting your interests, doesn't it?---No, it didn't mean that.

It means that they are not doing things your way, doesn't it?---No. It was a plural usage, it was feedback from a number of Councillors feeling similarly - - -

Ms Scaffidi, I didn't ask you to go on. You'd finished your answer?---Okay.

5

To have someone's back is to protect them from harm, isn't it?---Well, protecting them from harm is also ensuring good governance.

And that's what Mr Stevenson did, didn't he?---Not early enough.

10

But he did?---Eventually we all did.

Mr Stevenson did, didn't he?---He can't claim that he did it.

15

That's not what I asked you, Ms Scaffidi. My question was, Mr Stevenson did demonstrate good governance, didn't he?---Mr Stevenson did eventually demonstrate better governance for the City of Perth but it was so systematically failing that there was a very long road to go through.

20

And you and the Elected Members were part of that systemic failing, weren't you?---We were all part of the systemic failing, the Administration and the Council, absolutely.

And it was Mr Stevenson's job to manage that, wasn't it?---It was Mr Stevenson and the Governance Team's job to manage it.

25

And it was your job to lead the Council through that, wasn't it?---Yes.

Ms Scaffidi, we have learned already that you only have one telephone number?---Yes.

30

And you provided that to the Inquiry?---Yes.

We have also heard that you used WhatsApp messaging?---Yes.

35

And you did that in the group setting?---Yes.

You created a team on WhatsApp, didn't you?---Correct.

40

And that included all of the Elected Members except Mr Harley and Dr Green, didn't it?---Yes.

And you also used WhatsApp messaging to communicate directly with Mr Limnios?---Yes.

45

Using WhatsApp was one of the ways you communicated Council business?---It was a messaging app so yes, we would message each other and it would be

Council related at times.

5 Madam Associate, if some documents could be provided to the witness and to counsel at the Bar table, please, starting at 14.1797. I'm sorry, Madam Associate, the bundle starts earlier than what I've told you. I'm just trying to find the first.

ASSOCIATE: 1721?

10 MS ELLSON: 1721, yes, thank you, it does.

ASSOCIATE: Ending 1868?

MS ELLSON: Yes, thank you.

15 Ms Scaffidi, I'm just going to ask you a question about the first page, please, before I ask you to turn to a particular entry?---Okay.

Do you see here what's described as, "Chat-154"?---Sorry, chat?

20 Chat 154, at the top of the page.

COMMISSIONER: Which page?

25 MS ELLSON: 1721?---I can see 1721 but what's the 154, I don't understand that.

At the very top of the page - - -?---I see.

I'm just checking you've got the same document as I do?---Yes, got it.

30 You see "Chat-154"?---Mm hmm.

Do you see there, or do you recognise there your one telephone number next to, "Participants"?---Yes.

35 @WhatsApp?---Yes.

That's your WhatsApp user name?---Yes.

Is yours?---Yes.

40 And next to that is Mr Limnios' details?---Right.

Do you recognise those?---I do.

45 Do you recognise this as your chats, your WhatsApp chats - - -?---No, I don't.

- - - with Mr Limnios?---Well, only because any WhatsApp chats I've seen have a

different background. This is clearly just the way it must print out.

It's the raw data that's been extracted from the device, Ms Scaffidi?---Okay, no problem.

5

Do you recognise the words on the page that have been attributed to you?---Okay. Which words in particular?

I'm going to take you now to page 14.1797?---Right.

10

Do you see here a WhatsApp message?---Yes.

From you?---Yes.

15

Sent to Mr Limnios?---Right.

Intended for Jim, Rob, Lily, Janet, James, Keith and Judy?---Can I just re-read it to familiarise myself?

20

I will get there?---Okay. Yes, I do see that.

Is this an email or is this text something you intended to send to all of the Councillors, except for Councillor Harley and Councillor Green? You can take your time to answer that question, Ms Scaffidi?---Thank you. Can I read it now?

25

Yes, please?---Okay, I remember this - well, I recollect it.

This is a message that you sent to Mr Limnios the day after the CCC released their report into you?---Correct.

30

I want to ask you a question about this comment:

PS. There is a lot more about who referred me to the CCC which I'm very keen to share but for now one haemorrhaging step at a time!

35

?---Yes.

Who referred you to the CCC, Ms Scaffidi?---So, there were two referrals to my understanding. There was the item that had come out of the news which was, I think, from a Supreme Court finding in the United States to do with the BHP matter, and then Mr Stevenson had told me well prior to my going to the CCC, which I'm guessing March/April, that he was going through other matters.

40

Mr Stevenson had not told you by 6 October 2015 that he had reported you to the CCC, had he?---He did. He spoke to me before the CCC even came knocking on my door.

45

That's not true, is it?---I've just said it so I can repeat it again: Mr Stevenson - - -

5 Mr Stevenson conducted an internal investigation, didn't he?---He did conduct an internal investigation looking at other breaches but I think that was afterwards. He told me before the CCC appearance that there was - yes, I don't know the words he used now but there was definitely something he told me that he was looking into.

10 Did you tell the other members of the Council, except for Mr Harley and Dr Green, that Mr Stevenson was the one that had referred you to the CCC?---Dr Green wouldn't have been on Council on 6 October.

That's true, my mistake. Councillor Butler?---Sorry, repeat the question?

15 Did you tell the other members of Council - - -?---No, I didn't.

- - - that Mr Stevenson had reported to you the CCC on or about 6 October 2015?---That would have been the first time that I told them, I believe, because of what I've said there, the PS, "There is a lot more about who referred me." I mean, I'm just trying to think of the timeframe and it's very hard to recollect it now, but 20 there was definitely an awareness from him that the CCC were going to come knocking on my door, weeks before they did, and it's a very hazy recollection now.

25 Ms Scaffidi, you say here you were very keen to share who reported you. That was because you were angry at them, wasn't it?---I wasn't able to speak to them on that matter and I understood that. I was hurt about what I was going through, knowing that I had not done anything dishonest. It was careless error on my part, as we know from the outcome of the SAT, and I was going through a very difficult time that was horrible for me - - -

30 I didn't ask you about - - -?---I know, but I'm trying to recollect it.

Ms Scaffidi - - -

35 COMMISSIONER: Just answer the question that's been asked, please, Ms Scaffidi?---So - - -

40 MS ELLSON: Ms Scaffidi, you were very keen to share who referred you to the CCC because you were angry at them, weren't you?---No. See, you're using very colourful words there. I was - - -

I'm using yours. You say "I'm very keen to share"?---I don't say angry.

45 In the context of "a lot more about who referred me to the CCC"?---But I don't use the word "angry" there.

My question is, you were very keen to share it with your select group of members because you were angry at the person, weren't you?---I wasn't angry at the person.

I understood the statutory obligation and let's be very clear about that because I've had to make this point a couple of times today - - -

Ms Scaffidi, you don't need to be clear about those things - - -?---I do.

5

- - - you need to answer the questions. My question has been answered and I'm going to ask you another one. Ms Scaffidi, did you suspect that Mr Stevenson was ever untruthful with you?---No.

10 Did you ever allude to Mr Stevenson that he was not being truthful?---I'm a very straight shooter, as most people know so I probably alluded to Gary that I was not happy with the fact that there had been less of a professional relationship conversation to the level I felt there should be, with some of the matters that I ordinarily could have expected to have known about, and not things that were - - -

15

Ms Scaffidi, that's not an answer to my question?---Well, it's the best I can give.

I'm going to ask it again. Take a little bit of time to think about it and then answer it. Did you ever allude to Mr Stevenson that he was not being truthful with you?---No, because I don't think he is an untruthful person. I think there's an element of evasiveness with Mr Stevenson and by his own admission, he is a non-communicator

20

[12.30 pm]

25

Mr Stevenson and you were just trying to sort through a media release to be made in October 2015, do you recall doing that?---Yes, I recall that. You've sent me pre-reading on that.

30 I will ask Madam Associate to bring up a document at 14.2093, TRIM 23263. The previous TRIM, 22552.

COMMISSIONER: Thank you.

35 MS ELLSON: Ms Scaffidi, if the documents could be taken away from you, please?---Okay.

I'm the last person that will have that document in front of me. Do you recognise there an email from yourself to Mr Stevenson - - -?---It's not to Stevenson.

40

- - - two others - sorry?---Sorry?

14.0871. I'm sorry, we can do this document, Madam Associate, that's my mistake. Do you see there an email from you to Councillors Adamos, Butler, Chen, Davidson, Deputy Lord Mayor Limnios, Councillor Yong and Councillor McEvoy?---Correct.

45

Do you see that you've used their personal email addresses?---Yes, from a separate email of mine.

5 Yes. Do you see that the text of that email is the same as the text of the WhatsApp chat with Mr Linnios that we have just spoken about?---Yes.

And that you've written the same?---It appears to be the same, yes, cut and pasted.

10 The document can be removed, Madam Associate. Could you please turn to an email at 14.0874, which is the first chronologically in a bundle of papers?---Yes, I recall this.

What is it that you recall?---The pre-reading that's been sent to me.

15 So you recall it because you've read it before?---Yes.

Do you recognise the email on the page as one Mr Stevenson sent on 10 October at 3.23 pm?---Yes.

20 And that was in relation to settling what was to become a media release?---Correct.

And that had something to do with the CCC?---Correct.

25 Madam Associate, if you could turn, please, to page 14.0873?---Yes.

The very bottom of the page there's an email identifier, 10 October 2015, 3.27 pm?---Yes.

30 Which uses your name?---Yes.

You've replied to Mr Stevenson by using the words on the page 14.0874?---Yes.

35 On page 14.0873 again, Madam Associate, please?---Yes, I remember it.

Mr Stevenson has replied to you at 3.31 pm there, do you recognise that?---Yes, I do.

40 And Mr Stevenson says:

It will be cumbersome to send the journalist a third version. However, if she asks further I will be prepared to clarify. Please note, however, the fact is that the Directors' travel has been the subject of a retrospective disclosure which I had recommended to all.

45

Do you see that?---I do.

If you could move to, please, Madam Associate, 14.0872. The second half of the page, do you see there, Ms Scaffidi, an email on 10 October 2015?---Yes, I do.

3.33 pm?---Yes.

5

Is this your reply to Mr Stevenson?---It is.

You say:

10

Retrospectivity is not allowed under the LG Act, only federal laws allow that.

Then you say:

15

Cumbersome versus truthful, thanks!

?---Yes.

20 You're accusing Mr Stevenson of being untruthful with you there, aren't you?---I am questioning him and I believe there was a phone conversation that ensued as well as these emails.

You were questioning his truthfulness, weren't you?---I felt he was leaving out a very pertinent fact.

25

Did you believe he was being dishonest by doing that?---Omission.

You questioned his truthfulness?---Yes, in that regard I did.

30

So when you said to me before that you had never done that, that wasn't the truth?---Well, I had no reason to do it before but on this occasion, he had worked with the media officer on a reply that was - - -

Ms Scaffidi, the question was - - -?--- - - - directly related to me.

35

My question was related to an answer you gave me when I asked you whether or not you had ever alluded to Mr Stevenson that he had been untruthful with you - - -?---I don't think he had on other occasions.

40

- - - your answer to me - I haven't finished my question?---Sorry.

And because you interrupted me, I'm going to start it again?---I apologise.

45

Ms Scaffidi, when I asked you whether or not you had ever been or ever alluded to Mr Stevenson that he had been untruthful with you, your answer was, "No". You've now admitted that in this email you have done that so your first answer was wrong, wasn't it?---Well, I didn't recall this issue when you asked me that question.

I was thinking generally.

So you were wrong, weren't you?---Yes, happy to accept I'm wrong. I'm only human.

5

Madam Associate, if you could move to the previous page which is 14.0871?---Yes.

Do you see there an email from Mr Stevenson?---Yes.

10

:

Nothing I have said is not truthful.

15 Do you see that?---Correct.

So Mr Stevenson has answered your accusation with his assertion that he's not being untruthful with you, that's right, isn't it?---He clarifies it further below, but yes.

20

Then above that there's an email, 10 October 2015 at 3.43 pm?---Correct.

And you recognise that as your reply?---Absolutely.

25 And you say:

Didn't say that, Gary. I'd say it's more of a case of convenience! But I'm noting it all and all will be sorted soon.

30 Do you see that?---Yes.

When you say "but I'm noting it all and all will be sorted soon", were you planning to dismiss Mr Stevenson at this stage?---No, and I know that's been his view of it because he put it in his - - -

35

Ms Scaffidi, I didn't ask you about Mr Stevenson's view on anything?---Okay.

Your answer was, "No", that's correct, isn't it?---Correct.

40 Mr Stevenson has said that the relationship between you and he was quite toxic by this stage, do you agree with that?---Uncomfortable. Toxic is a strong word but if he says toxic, that's his opinion and his prerogative.

I've asked for yours?---My description would have been - you know, he wasn't a great fit for the organisation - - -

45

Ms Scaffidi, I asked you about your relationship with Mr Stevenson. He has said

that your relationship was quite toxic by this stage; what do you say your relationship was with Mr Stevenson at this stage?---Unpleasant.

5 Were you planning to dismiss Mr Stevenson after the October 2015 election?---That was the conjecture and the answer is, no.

Mr Stevenson had commenced an internal review in late August 2015, hadn't he?---I'm sorry, what's the internal review?

10 Do you know what that is?---I don't think I do know entirely, unless it was the internal review that he's harking to in these emails.

COMMISSIONER: I think Ms Scaffidi raises a fair point. She's entitled to know what the review was.

15

MS ELLSON: Yes.

Mr Stevenson was conducting an internal review with a view to considering whether or not to report matters to the CCC?---Okay.

20

Does that refresh your memory?---Absolutely it does because many of those matters I had possibly even raised to his attention.

And in October 2015, you learned that Mr Stevenson had referred the results of his internal review to the CCC, isn't that right?---Yes, I believe I've seen the letter and I've got a copy of it somewhere in my files.

25

There was some confusion about whether or not Mr Stevenson was conducting an external review, wasn't there?---So I don't know what the external review is now.

30

All right. If you could be shown, please, Madam Associate, some emails which commence on 14.0886?---Okay.

Do you see at the very bottom an email addressed to Gary dated 10 October 2015 at 9.30 pm?---Yes. 9.35 pm?

35

No?---9.30, yes, I see it, further down, yes.

And you say you've had the chance to read a Sunday Times article?---Yes.

40

And you make reference to "there being no such thing as a minor disclosure"?---Correct.

And you indicate to Mr Stevenson the scope of the CCC there?---Yes.

45

That's not an accurate description of what it was, was it?---Well, apologies if it's not. It was my best effort at the time.

You say:

5 *It would be most unfortunate for the City if the investigation was re-opened because of the selective provision of information to the press or the CCC.*

?---M'mm.

10 :

Please urgently provide us with details of this external review you have commissioned, including the authority to undertake the review and outline when it commences and who is doing it, please.

15

Do you see that?---Yes.

20 Is it fair to think then that you had become aware of a potential external review facilitated by Mr Stevenson, rightly or wrongly, and you wanted Mr Stevenson to provide you with the details of it urgently?---The first part of your question was, was it right or wrong?

25 Rightly or wrongly an external review, I'm not saying that that was correct, there had been one of those, but you had become aware of a possible external review?---Yes.

30 And you wanted Mr Stevenson to provide it to you urgently?---So I can't recall now, when we are going over this now, whether this talk of an external review had been mentioned in a newspaper article or how it had been - - -

30

Ms Scaffidi, if you turn your mind to your email, it will become clear to you?---Okay, right. I can see - - -

35 So you've read The Sunday Times article?---Yes.

35

It raises significant issues?---Yes.

The scope of the CCC investigation was X, rightly or wrongly?---Mm hmm.

40 "It would be most unfortunate if the investigation was re-opened because of the selective provision of information to the press or the CCC"?---Yes.

45 So you're concerned about what the press were finding out about?---No, I wasn't concerned. I was happy that they were finding out about the other non-disclosures because so far it had only been mine that had been in the media.

And that was because the CCC were investigating yours though, wasn't

it?---Correct.

And you asked Mr Stevenson urgently to provide you with details of the external review he commissioned?---Yes.

5

So you believed Mr Stevenson had commissioned another external review?---Yes.

And you wanted it?---Yes, I was led to believe a commissioned external - yes, that's right.

10

Mr Stevenson replied at 9.35 pm that he hadn't read the article but he advised you that he had not commissioned an external review?---Mm hmm. Right.

Then you emailed him again at 9.59 pm?---Mm hmm.

15

And you copied in a number of Councillors, not including Councillor Harley?---No.

And you've said to him:

20

But Gary, at 3.14 today you told Jane to tell the media that some non-disclosures were the subject of an external review. If you haven't done it, then what or whom is undertaking the review. The information required urgently, please.

25

Why is the information required of Mr Stevenson urgently?---I was trying to understand why there were these comments being made. They might have been incorrect comments but I was trying to understand it.

30

[12.45 pm]

Were you trying to understand whether or not Mr Stevenson had made further reports to the CCC about you?---I really wasn't worried about that, no.

35

That's not true, is it?---It is, actually, it really is.

You had been through the process?---Been through there and it's - - -

40

In your lengthy email with the PS at the bottom, you expressed your relief about the process having been resolved, hadn't you?---Of course.

So the potential for further matters to be raised would cause you some distress, wouldn't it?---No, because I knew that I had not intentionally done anything dishonest.

45

So why ask Mr Stevenson for these things urgently?---Because this email, which follows on from his comments to Jane Grljusich about other, you know, travel

non-disclosures, was a concern to me. I won't elaborate now because I'm sure Mr van der Zanden will be - - -

Ms Scaffidi, don't speculate about what your lawyer may or may not be?---Okay.

5

Answer the questions?---Okay, I will answer the question.

Were you angry at Mr Stevenson?---No.

10 Then why ask for it urgently?---I was perplexed at that point because if it's the article I'm thinking it is, it was the front page where Rob Butler, and I'm pretty sure it was that one because of the date, it was the front page of The Sunday Times where Rob Butler had been exposed for non-disclosure of a trip to Malaysia.

15 And you wanted to know if Mr Stevenson had also reported you, didn't you?---Also reported me?

Yes?---Well, no. No, that's not my answer.

20 That's your email suggests, isn't it, at 9.30 pm:

It would be most unfortunate for the City if the investigation was re-opened.

25 It was the CCC investigation you were referring to there, wasn't it ?---It doesn't necessarily re-opened, into me.

You referred to the investigation of the CCC to investigate - "the scope of the CCC investigation was as follows", that investigation was into you, wasn't it?---It was.

30

Then you've asked in the context of saying that, "It would be unfortunate for the City if the investigation was re-opened"?---I mean for the City's brand.

So you're contemplating there - you're the leader of the Council?---Correct.

35

It would be unfortunate for you as well, wouldn't it, if it was re-opened?---Because it was a brand hit on the City which we didn't need and that's what I meant in that comment.

40 It has nothing to do that, your request, does it, Ms Scaffidi?---No, it does.

You wanted to know if Mr Stevenson had reported you or reported further matters to the CCC, didn't you?---I already knew that he had - no, I think we are at cross-purposes there.

45

No, Ms Scaffidi, you're avoiding my question?---No, I'm not. If you'll let me answer it, I will answer it wholesomely and my answer would be - - -

No, your answer is?---My answer is that the article related to Rob Butler's non-disclosure of a trip to Malaysia. That similar non-disclosure also impacted another Councillor and of course, the earlier reference there to - what did we call it
5 - what was the thing that I said, it's only in the federal thing? Retrospective disclosures, that was a conversation that Gary had had with myself and Martin Mileham.

Ms Scaffidi, you're not answering my question?---I'm trying to.
10

You're going on roundabouts?---No, I'm not, I'm actually answering the question.

Ms Scaffidi, my question is, you were concerned that Mr Stevenson had made further reports about you to the CCC, weren't you?---No, I was not.
15

And you wanted the report, because you were angry?---No.

Or afraid?---I think I actually saw the report at one point and it was a number of officers.
20

Ms Scaffidi, my question was, at 10 October 2015, you wanted the report because you were angry or afraid?---You keep using the word "angry ", I wasn't afraid and I don't agree with that, no.

That's an answer to my question, thank you?---Yes.
25

I will move on. Ms Scaffidi, Mr Stevenson replied to you at 10.43 am on Sunday, 11 October 2015?---I haven't got that one.

Madam Associate, if page 14.0885 could be brought up, please. TRIM 13556.
30

COMMISSIONER: Thank you.

MS ELLSON: You see here, Ms Scaffidi, Mr Stevenson indicates that in late August he referred the results of the internal review to the CCC as he was obliged to do?---Mm hmm.
35

He also indicates that he had not yet received a reply so he understood that the matter was undergoing assessment by that authority and believed he was not at liberty to disclose the details?---And that's fine but that confirms - - -
40

Yes, it is fine?---Yes.

It should be noted, however, that Mr Stevenson discussed the potential non-disclosures with each of the relevant officers and Elected Members some months ago and provided advice to them at that time?---Yes.
45

Did Mr Stevenson discuss with you some months before 11 October 2015, your accommodation and travel in New York?---Yes, he did, with Martin Mileham in the room as well.

5 Were you concerned that there might have been other disclosures that he may have made to the CCC about you in October 2015?---No, because I knew that they were all going to be non-disclosures and I had said that to the media as well.

10 Did you make further requests of Mr Stevenson to obtain the internal review?---No, I did not.

That's not true, is it?---Well, I don't believe I did at all. If we can just stay on that conversation of the retrospective - - -

15 Ms Scaffidi, I've asked my question and you've answered it?---Okay.

Ms Scaffidi, if you could be shown now, please, 14.0881. It actually begins on that page and it's the following day, 11 October 2015 at 1.25 pm, do you see that?---Yes, I do.

20 Do you recognise this as an email that you sent to Mr Stevenson as well as to Mr Butler and Councillor Davidson?---Yes.

25 Councillor Butler being a Councillor that you mentioned in relation to a potential Sunday Times article?---Yes.

And Councillor Davidson is there for what reason?---It potentially impacted her as well.

30 How?---She had done the same trip while she was Deputy Lord Mayor.

So you were concerned for them as well as yourself?---Yes.

35 And in fact you say:

I am most concerned that as a Council we didn't know about this internal and external review until just now.

40 Do you see that?---Yes.

You had become angry with Mr Stevenson for keeping it from you?---Concerned.

45 You indicate Mr Stevenson had delayed in some way and you asked him about the notification, is that right?---Yes.

And over the page, 14.0882:

My lawyers advise there is nothing preventing you providing the Council immediately with the results of the internal review. Please do so immediately.

5 So when you said to me that you'd made no efforts to obtain the internal review - -
-?---I had forgotten.

- - - that was untrue, wasn't it?---You know, I had forgotten. It wasn't that I was
evading it, I had forgotten.

10 It was untrue?---I had forgotten.

You've made an attempt here - - -?---I did, and I'm glad I did.

15 - - - to obtain the internal review?---Yes, I'm glad I did.

So when you answered me that you'd never done, that that was untrue?---It was
forgotten about, it wasn't untrue. I don't recall every email I send.

20 COMMISSIONER: Ms Ellson, I think that's as far as you can go.

MS ELLSON: Looking at it now, Ms Scaffidi, it's clear that you wanted the
internal report immediately, isn't it?---Well, I was going on the advice I had been
given and I was obviously keen to know what was going on.

25 And you were so concerned about what was in the internal report that you involved
your lawyers in the matter, isn't that right?---That's fair enough.

You were so concerned about - - -?---I was concerned - - -

30 - - - of what was in the report - - -?---You used the adjective - - -

- - - that you involved your lawyers, didn't you?---I did. That's what I pay them
for.

35 And you were so concerned that you made this request for the report to be
provided to you immediately?---Yes.

In fact, you used that word three times in two paragraphs, didn't you?---Yes, I did.

40 You were angry at Mr Stevenson for keeping it from you, weren't
you?---Perplexed.

And you wanted it?---M'mm.

45 You wanted it so badly that you asked the CCC for it. That's in the third
paragraph, Ms Scaffidi?---Okay, sorry.

COMMISSIONER: Just give Ms Scaffidi enough time to read the whole of the email, please.

5 MS ELLSON: Yes. Thank you, Commissioner?---No. Third paragraph there, I didn't ask - I've never called the CCC ever.

You were concerned about the nature of the information Mr Stevenson had given to the CCC?---Yes - well, not - - -

10

And you were concerned about it from your own perspective?---Not from the point of view of being worried about anything. I just wanted to make sure that the CCC knew the full extent of non-disclosure as in it wasn't just me, because the media was only reporting as though I was the offending - the sole offender.

15

And that was because you had been the person investigated, wasn't it?---I accept that and I have no problem with that.

20 And you were worried that there was more to be uncovered by Mr Stevenson?---No, no, because I - - -

25 You were worried Mr Stevenson had reported more to the CCC?---No, I was not because I had already reported it to my lawyers who had reported it all to the CCC, knowing that I had not disclosed all of my Lord Mayoral travel for the entirety of my tenure.

30 You were so worried about what Mr Stevenson had referred to the CCC that you asked your lawyers to write to the CCC to obtain the information, didn't you?---I don't recall that.

35 Please look at the last paragraph of your email, Ms Scaffidi, 14.0883?---That's not up on the screen. Okay, if I wrote that there, then yes, I must have said it. I don't recall it but I do now.

40 And you were so concerned about what Mr Stevenson had reported to the CCC that you asked your lawyers to write to the CCC to obtain the information, didn't you?---I need to dissect that comment because I don't accept the first part of your assumption or your premise. I was concerned, it's only natural that I would be concerned because I was coming to terms with the whole matter myself. I was anxious about it. I knew that apart from the BHP trip, I had not disclosed, I think pretty well all of my third party paid Lord Mayoral travel and I knew, as I was starting to understand what had occurred, that other people were caught up in this unfortunate situation.

45 And you were so anxious about it that you had your lawyers write to the CCC to obtain Mr Stevenson's review?---I may well have and they would have been equally questioning me about it and showing the same concern because we were

all trying to get a better understanding of what was occurring. It was early days - -

-

5 Ms Scaffidi, in answer to my question, do you see the last paragraph that you've written here?---Yes.

10 Do you agree that you were going to instruct your lawyers to write to the CCC to obtain the information you thought Mr Stevenson had given them?---Yes, and they did.

And you did instruct them to do that?---Yes.

And they acted on your instructions?---I believe, yes.

15 That was because you wanted what was in Mr Stevenson's report?---I'm happy to say yes to that.

COMMISSIONER: Are you moving on to something different, Ms Ellson?

20 MS ELLSON: Yes.

COMMISSIONER: Would this be a convenient time?

25 MS ELLSON: Yes.

COMMISSIONER: I will adjourn the Inquiry to 2 pm.

WITNESS WITHDREW

30 **(Luncheon Adjournment)**

35

40

45

HEARING RECOMMENCED AT 2.00 PM.

MS Lisa-Michelle SCAFFIDI, recalled on former oath:

5

COMMISSIONER: Yes, Ms Ellson.

MS ELLSON: Commissioner. Just to indicate for the transcript that the TRIM number of the previous document was 13555.

10

COMMISSIONER: Thank you.

MS ELLSON: Ms Scaffidi, did Mr Stevenson remind you about the statutory process that he was following with respect to keeping the internal review from you?---He used the word "statutory" a lot so I would say yes.

15

Did he, with respect to keeping the internal review from you?---Did he what?

Did he refer to the statutory process?---I don't know that he referred to a process, so I can't say yes to that.

20

Madam Associate, if you could bring up, please, page 14.0892, TRIM 13537.

COMMISSIONER: Thank you.

25

MS ELLSON: Ms Scaffidi, do you see there in the middle of the page or just below the middle, an email from yourself to Mr Stevenson and Councillor Butler and Councillor Davidson?---Yes.

30

Dated 11 October, 1.25 pm?---Yes.

With the subject, "Non-disclosure issues"?---Right.

Do you recognise that as a document we have previously looked at this morning?---I don't recall but I'm happy - yes, I can see it's an email from me.

35

And we have looked at it this morning?---Okay.

Madam Associate, if we could turn, please, to page 14.0890. Do you see there, Ms Scaffidi, an email from Mr Stevenson to yourself, copying in Councillors Davidson and Butler, replying to your email, "Non-disclosure issues"?---At the bottom, yes, okay. Yes.

40

Just take your time to read through that. Mr Stevenson is indicating to you that the matter's in the hands of the CCC?---Yes.

45

And the fact that he wanted to seek advice from that authority about your request

to release the details?---Yes.

5 The next page, Madam Associate, please, 14.0891, please. Ms Scaffidi, you take your time to read through that, please. Mr Stevenson is indicating to you that the information he "provided to the CCC was neither selective, nor inconsistent and included all potential non-disclosures identified in a review"?---Right.

10 Relating to 2011/12, 12/13 and 13/14 financial years?---Okay. Can I have a moment to read it?

He also indicates to you that the CCC investigation was related to just your own non-disclosures?---Okay. I'm just halfway through it.

15 COMMISSIONER: Just let me know when you've finished, please, Ms Scaffidi?---I will.

Take your time?---Yes, I've finished it.

20 MS ELLSON: So Mr Stevenson's reminding you that the CCC matter was about your own non-disclosures?---Yes.

:

25 *And it would naturally leave open the prospect of other investigations by the CCC relating to any other person's acceptance and disclosure of gifts and travel .*

Do you see that?---Yes.

30 And he indicates here:

35 *These are complicated and difficult circumstances and it is my earnest advice to you and all others to respect due statutory process for the sake of those who will deserve natural justice and procedural fairness if their own actions are subject to judicial and other scrutiny in the future.*

Do you see that?---Yes.

40 Do you accept that Mr Stevenson was emphasising to you the importance of you having regard to due statutory processes when he wrote this email?--- Yes.

45 And he was doing that in the context of your requests to have the internal review provided to him immediately, wasn't he?---Yes.

And that is because you were not respecting his requests or his wish not to disclose the information?---No.

Madam Associate, I would like you now to turn away from that document and move toward a bundle of documents, beginning at 14.0069, in hard copy, please, Madam Associate, ending at 14.0200. Ms Scaffidi, just looking at the first page
5 for the moment, please, do you see there a list of participants in what is described as a WhatsApp chat number 137?---Yes.

"Team"?---Yes.

10 Up the very top?---Yes.

You indicated before that you participated in a WhatsApp chat with certain Councillors. They are listed here as Mr Limnios, Mr Yong, Ms McEvoy, Ms Davidson, Ms Chen and Mr Adamos?---Correct.

15

Do you see that?---Yes.

Do you accept that those people formed a group, "Team" on WhatsApp?---Correct.

20 And do you accept that you created that group on WhatsApp?---M'mm.

That is a yes?---I'm sorry, yes.

It doesn't record?---I'm sorry.

25

Do you see here on this page a chat, and I'm going to call them segments. The writing between the dotted lines, I'm going to refer to as a segment?---I understand.

30 So we can count to the third segment, 22/10/2015, 4.37 pm. Do you recognise there an entry or a WhatsApp message that you've created at that time and date?---Yes, okay.

And what does it say?---It that the one that says, "Congrats, James"?

35

No?---Sorry.

Number 3, the third segment?---"Hi team"?

40 Yes, that's the one?---Mm hmm.

And then the next one. The, "Hi team" one is not yours, is it?---Goodness. I haven't seen it in this format before, I'm just - okay, is that from Keith Yong?

45 It looks like that?---Okay.

And then the next one, that's from you, isn't it?---"Hey everyone", yes.

And what does it say?---"This is for mass communication."

And what else does it say?---"App use instead of text for all of us."

5

Thank you. This means then that the WhatsApp group was asked by you to use the WhatsApp application instead of text messaging, is that right?---Yes.

10 Why did you decide to do that?---I use it pretty well exclusively these days. It's quicker, as I've explained. It can be voice or writing and also you pick up the message when it suits you, which I know is the same for text but I think it's use a quicker, easier form of communication.

15 I will ask you, please, now to turn to page 14.0080, that's the red page?---Mm hmm.

At the very bottom there's a line there with a, "From" Mr Limnios, do you see that? The very bottom of the page?---Right, and then it goes over to the next page.

20 Yes, it does. So to be fair, we are starting at the beginning of what is a WhatsApp chat?---Right.

We are moving to the second segment on page 14.0081?---Right.

25 Do you see your name there, 81 in the second segment?---Sorry, 81 in the second segment. Yes, I see my name, yes.

That's your message?---So my message is, "Too short notice", that one?

30 Yes?---Yes, okay.

What does it say?---"Too short notice, be busy. Set up after Mel. Just my view and don't let her call shots."

35 And that's in response to a message sent by Mr Limnios?---Correct.

Concerning Dr Green, isn't that right?---Correct.

40 So you're indicating there not to let Dr Green call the shots, aren't you?---Absolutely.

Why are you doing that?---Because - do you want me to answer this?

45 I've asked you the question?---Okay. My recollection, Jemma had been rude and was then wanting individual meetings and I had had an individual meeting with her, I did not chose to have any more and I do recall an email where I said, you know, I'll deal with her at committees or Council meetings, something to that

effect.

Dr Green was new to the Council in October 2015, wasn't she?---Correct.

5 And she was inviting Council members to have coffee with her from time to time, wasn't she?---And I'm sure they did.

And presumably she was doing that because she wanted to get to know people on the Council?---Of course.

10

And you didn't want the others in your team to go for coffee with her, did you?---No. I would not dictate to other adults to not go and have coffee meetings. My point - - -

15 You've said here to Mr Linnios, "Be busy".

COMMISSIONER: I think Ms Scaffidi should be allowed to answer that question, it's a responsive answer.

20 MS ELLSON: I apologise, Commissioner.

COMMISSIONER: Not at all. Ms Scaffidi, please continue with your response?---Could you repeat the question? That threw me a little bit.

25 MS ELLSON: Yes. Dr Green wanted to get to know the members on her Council?---Mm hmm.

And you indicated to others in your team not to have coffee with her, didn't you?---Not if she was - to not have coffee with her if she was going to denigrate me, but I can't tell other adults to not meet for coffee.

30

Here you've said to Mr Linnios, "Too short notice, be busy"; you are doing precisely that, aren't you?---To him maybe, but not to others. Actually, it was to him, my response.

35

The response goes to the team, doesn't it?---Yes, but I wasn't intending it for everybody. I'm not telling adults what to do.

Mr Linnios is an adult, isn't he?---I'm not telling other adults including Mr Linnios - - -

40

Mr Linnios is an adult, isn't he?---He is.

And you were telling him to be busy, "Too short notice", aren't you?---Well yes, I see what you're saying. It is telling him, "Be too busy".

45

And you're telling Mr Linnios, "Don't let her call the shots", aren't you?---But

you're relating it to an exclusive only WhatsApp chat and not - - -

My question was related just then to Mr Limnios?---I understand.

5 You're telling Mr Limnios not to let Dr Green call the shots, aren't you?---Correct.

And the messages you send to Mr Limnios go to everyone in the team, don't they?---Yes, but they weren't - - -

10 MR van der ZANDEN: Objection.

COMMISSIONER: Should I hear the objection in the absence of the witness, Mr van der Zanden?

15 MR van der ZANDEN: No, I don't think that's necessary, Commissioner.

COMMISSIONER: Very well.

20 MR van der ZANDEN: The objection is that my friend, on occasions, is not allowing the witness to complete her answer and that was another occasion.

COMMISSIONER: Mr van der Zanden, you will have noticed that when I consider that the answer is responsive to the precise question put, I have allowed your client to give a full answer, have I not?

25

MR van der ZANDEN: My friend has, on occasion - - -

COMMISSIONER: What about answering my question?

30 MR van der ZANDEN: You haven't stopped the witness, yes, I agree.

COMMISSIONER: That's right. That question was a very precise question and the witness had completed a responsive answer to that question, so I'm not going to uphold your objection on this occasion.

35

MR van der ZANDEN: Yes.

COMMISSIONER: You should feel free to rise whenever you consider it necessary.

40

MR van der ZANDEN: Yes, Commissioner.

COMMISSIONER: Ms Ellson, please continue.

45 MS ELLSON: Thank you.

Ms Scaffidi, in the next segment, so I'm looking at the third segment, there's a

message there from Ms McEvoy, do you see that? I don't need you to read it out aloud?---Is that the one with the time stamp 7.04?

[2.15 pm]

5

6.59?---Okay, up top.

COMMISSIONER: It might be more helpful when you take the witness to the segments, to identify the time because if you are seeing this for the first time, I can understand why Ms Scaffidi might find it difficult to pick up what you're referring to.

MS ELLSON: Yes, Commissioner.

15 COMMISSIONER: Thank you, Ms Ellson

WITNESS: I can see the 6.59 one.

20 MS ELLSON: Underneath that there's a 7 o'clock, or a 7 pm message?---7 o'clock message, yes.

And that's a message from you to the team?---Yes.

25 What does it say?---"Don't rush to reply."

The first line?---"Let her wait, you'll see her Tuesday."

The first line?---"I agree", yes.

30 And then it says?---Sorry, I wasn't leaving the, "I agree" out, it's just the body of the text.

Take your time, Ms Scaffidi. I will ask you to read the message in full?---Yes, of course.

35

From the beginning again?---So the 7 o'clock one says, "I agree. Don't rush to reply. Let her wait, you'll see her Tuesday. Talk as a group then."

40 So here, do you agree that you're telling Ms McEvoy not to rush to reply to Dr Green and to let her wait?---I'm happy to accept that and I think you must also include "talk as a group then." That was my point, we talk as a group, we don't individually pick off people and talk individually.

45 And part of talking as a group is using the WhatsApp messaging, isn't it?---Correct.

Underneath the message there's a 7.04 pm and that's not yours?---Right. Yes.

Then there's a 7.05 pm which is yours?---Okay.

What do you say?---"Getting the meetings in before baby born."

5

Dr Green was pregnant in October 2015, wasn't she?---Correct.

And you thought that she was trying to make, I suppose, too much effort to have coffee with the team members, didn't you?---Too much?

10

Too much effort to have coffee with the team members?---She was undermining me and she was making too much effort.

Ms Scaffidi, Dr Green had only been a member of the Council for a matter of weeks. She couldn't undermine you at that stage, could she?---Yes.

15

That's not reasonable, is it?---It is reasonable.

The following two messages on the page do not belong to you, do you see that?---Yes.

20

And then if you turn the page to 14.002.

COMMISSIONER: 0082?

25

MS ELLSON: Sorry, yes. Thank you, Commissioner.

There's a line before the segment that says, "Agree" and then there's an another message which is not yours at 7.06 pm?---Whose was that? James, right, "When suits all", yes.

30

7.25 pm. In this message you're arranging for your team to meet?---Correct.

Your name isn't again on the page until the bottom, is that right?---Just a minute. Okay.

35

Your name in full?---Okay, yes, I see that.

And then if you turn the page, 14.0083, do you see there a message from you at 7.53 pm?---Yes.

40

What does your message say?---:

45

If so, James, just ack - meaning acknowledge - her email and advise that you understand a catch-up is being arranged. You're pretty busy and about to go to Melbourne, so ask her to hook you into the meeting as a collective. This is what was agreed from my reading and

understanding. Tonight I saw Reece at Open House launch, still in the blue suit. Night all.

5 The reference to "Reece" is Councillor Harley, is that right?---Correct.

And the reference to "still in the blue suit" is a blue suit Mr Harley wears often?---Correct.

10 And you were making fun of him, weren't you?---Yes.

And you were doing that in a group chat?---As it ensues you can see that, yes.

15 Expecting all of your members of the team to read your message?---And they replied.

There's some messages that follow on from that which aren't yours, until you move down to 7.56 pm, do you see that?---7.53?

20 56?---Sorry 56, yes.

Do you see there a message from you dated 29 October 2015 at 7.56 pm?---I do.

25 What does it say?---I respond to James' reply to my comment about the suit:

Didn't get that close, James. Agree, Judy, on our terms. Seriously, James, she's testing everyone. Don't fall for it. As you say, all organised. Give them nothing. They are the left wing opposition, green bloody unionists at that.

30

And your reference there to, "She's testing everyone" is a reference to Dr Green?---Correct.

35 And your reference to, "They are the left wing opposition, green bloody unionists at that" is Dr Green and Councillor Harley, is that correct?---Absolutely.

You had strong views in opposition to theirs, did you?---I had - not views, I had proof because upon introducing herself to me, Jemma Green mentioned political contacts.

40

You believed at 29 October 2015 that Dr Green and Mr Harley had political views that opposed yours, is that right?---I agree with the first part of your comment there. They had political views, I don't accept that they didn't align with mine because, mine change with the wind too sometimes, but they had political views and they were very staunchly showing those political views.

45

Are you a "green bloody unionist" too?---No, I'm not.

Then your views aren't the same as Dr Green and Councillor Harley, are they?---No, but that - they are not the same, correct.

5 Going down the page, the message underneath that is not yours. The next message says, "Nightie night", with some emojis?---Yes.

And then at the bottom of the page you see your name?---Yes, the very last line.

10 And turning over the page to 14.0084, do you see some emojis?---Yes.

In the message underneath that at 8.03 pm?---Mm hmm.

What does that message say?---:

15

We are a team, all or nothing. Seven musketeers, no new members, no lone coffee dates. If you are a part of the footy team, does the new member invite you to coffee? No, you just hang around and watch the older guys and listen and learn for a while. That's how it is. Really clocking off now, night.

20

Ms Scaffidi, do you agree that the essence of your messages that you've just read out indicates you wanting to remain separate from Dr Green and Mr Harley?---Yes.

25

It's not appropriate to refer to fellow Councillors as "green bloody unionists" in Council communications, is it?---This was a WhatsApp but it was Council related. Not entirely appropriate but not incorrect.

30 You were very much making your views known to your team, weren't you?---Yes.

You were ostracising Dr Green and Mr Harley, weren't you?---I was speaking frankly.

35 To fellow Councillors?---M'mm - sorry, yes.

Fellow Councillors who needed to work alongside Dr Green and Mr Harley?---Fellow Councillors who - yes, I'm happy to accept that.

40 And you expected the team to act as a team?---I was disappointed with the political statements that had been made to me by Jemma Green at our first meeting.

Ms Scaffidi, I will just ask Madam Associate to take the messages away?---Okay.

45

You were asking the team to act as a team, weren't you?---Yes.

And you were asking the team to act as a team in the same way towards Dr Green and Mr Harley as you?---No, I wasn't.

You were telling the team that there were no new members?---Yes, sorry.

5

And those new members were Councillor Harley and Dr Green, is that right?---Councillor Harley was not a new member.

Dr Green was?---Yes.

10

Madam Associate, if the documents could be returned to the witness, please?---I'm going to ask you to turn to page 14.011.

COMMISSIONER: 011?

15

MS ELLSON: 1?---0110?

0111?---Okay.

20

I will ask you to look at a message time stamped 4.26 am?---Mm hmm.

28 November 2015?---M'mm. Okay. Can I read it?

25

Yes, please read it to yourself and then I'll ask you some questions about it?---Okay.

Have you finished reading the message, Ms Scaffidi?---Yes.

30

Please read out to me the first paragraph of the message on 14.0111?---Okay. So:

I'm awake and thinking about the online gift register situation and have drafted something to run by my lawyers. You know, as we have said, you've got to think of every angle with GS as he's never out to fully protect so I've said this 'Retrospectivity is' - - -

35

I asked you to read out the first paragraph, Ms Scaffidi?---Okay.

The second paragraph talks about retrospectivity and talking to Mr Stevenson about asking him things, that's right, isn't it?---Yes.

40

The first paragraph, you are talking about GS, being Mr Stevenson, aren't you?---Yes.

45

And it's correct to think then at 28 November 2015, you're still concerned that Mr Stevenson is never out to fully protect you, isn't that right?---Correct. It's a contextual - - -

I will ask you to return the documents, Ms Scaffidi?---Mm hmm.

Ms Scaffidi, do you know a lady by the name of Margie Tannock?---I do.

5 And who is she?---She was my solicitor during the CCC and the SAT hearings

[2.30 pm]

10 Two days after you sent that team chat about Mr Stevenson, did you ask Ms Tannock to write to Mr Stevenson to ask again for the internal review?---I don't recall but I accept what you're saying.

Which is what?---That she asked - she wrote to him.

15 And she did that on your instruction?---I'll accept what you're saying, yes.

I can show a document to you so we can all be clear, Ms Scaffidi?---Okay.

20 14.2079 at 23254. Do you see here an email sent by Margie Tannock?---Okay, yes.

To Mr Stevenson and to yourself?---Yes.

25 Monday, 30 November 2015?---Okay, yes.

Do you accept that Ms Tannock was acting on your instructions?---Yes, I'm happy to.

30 And you accept that she's making a request here to Mr Stevenson to "provide the results of an internal investigation" which were referred by Mr Stevenson to the CCC and she's asking for that to be done immediately?---Yes.

As you had?---Yes.

35 The document can be taken down, please, Madam Associate. In November 2015, Mr Stevenson prepared some submissions with respect to his Performance Review, isn't that right?---Yes.

40 And he provided them to you and the members of the Performance Review Committee?---Correct.

45 Madam Associate, if you could bring up 14.0913. Sorry, let's start at 14.0911, my apologies. TRIM 13560. Do you see here, Ms Scaffidi, an email from Mr Stevenson to yourself, Deputy Lord Mayor Linnios, who was the new member of the CEO Performance Review Committee after the October 2015 elections?---Yes.

And Councillor Davidson?---Correct.

You see there Mr Stevenson has purportedly attached a document setting out his response to the review findings?---Yes.

5

Or his submission. He's done that on 30 November 2015?---Yes.

And that's the same day your lawyer has written to him requesting the internal review immediately?---Yes.

10

At 14.0913, do you recognise that document as Mr Stevenson's submission?---Correct.

Madam Associate, if you could turn, please, to 14.0922. Ms Scaffidi, could you read to yourself the material under 3.15 and let me know when you've finished?---Yes.

15

Do you see there Mr Stevenson has indicated, among other things, that:

20

Reference to CCC is very concerning and indicates that some still do not acknowledge the statutory obligations of a CEO. The term "have our backs" is mentioned frequently. It is apparent that the majority of EMs - Elected Members - have expectations of me that either I do not understand or am not able to meet. I am devoutly loyal to this organisation and will always act with that in mind and in its best interests.

25

You don't disagree with anything Mr Stevenson has said there, do you?---No.

30

Turning to page 14.0927, you're an Elected Member, aren't you, Ms Scaffidi?---Yes.

Could you read to yourself, please, the page, which is all of the heading under 5.0?---Yes.

35

You've read the page?---Yes.

The first three paragraphs, Ms Scaffidi, and for present purposes I will read them out:

40

I look back on 2014/15 as a year of great reform and achievement, dedicated capital city legislation, major organisation structure reform and long awaited boundary expansion are all achievements that City of Perth has wanted and needed for many years. My role in achieving these outcomes was instrumental.

45

Do you agree with what Mr Stevenson's saying there?---Yes.

:

5 *Yet from the 2015 review I conclude that there is an unavoidable reality that almost all Elected Members do not like my personality or my leadership and communication style. I conclude that I do not meet the expectations of the majority of Elected Members. I conclude that this is consistent with the 2014 review.*

10 Do you agree with what Mr Stevenson is saying there?---Yes.

:

15 *However, such conclusions are the product of a flawed and very subjective Performance Review.*

Do you agree with that?---Not entirely, no.

20 How do you agree with that?---The fact that it was a flawed and subjective Performance Review is only something that we became aware of after it. At the time it was entered into by both parties in an accepted manner.

25 So you agree that it was both flawed and subjective?---At the time it wasn't seen as that but latterly I can accept it was because it was opinion based, as we have aired earlier today.

They all were, weren't they?---Yes, and that's how they had been.

:

30

I do not believe that the review is credible or fair, or that it reflects much at all of my broader achievements, capabilities and performance. It certainly does not satisfy contractual commitments.

35 Do you agree with that?---No, I don't agree with that. I don't agree particularly with the second sentence.

40 Mr Stevenson goes on to say that there is, in his view, just two options to move forward, and he sets out option 1, being Council terminating his employment contract, and option 2, Council and himself "confirming a commitment to ongoing collaboration", do you see that?---Correct.

45 In this document, it was the first time options had been presented to Council by Mr Stevenson, wasn't it?---Correct.

Mr Stevenson goes on to say that:

Council did not have grounds to terminate the employment contract under clause 8.2, "Termination by the City - officer's default.

Do you see that?---Yes, I see it.

5

And you agree with that?---Well, yes. We weren't terminating him.

:

10

And any attempt by Council to do so would be vigorously defended.

?---Correct.

Mr Stevenson then says:

15

It is clearly my preference that Council opts for option 2 and that all energy is focused on ensuring a constructive outlook for 2016, which will see the bedding in of the new organisational structure, boundary changes in Crawley, the commencement of the Capital City Committee and many other positive milestones.

20

Do you see that?---Yes.

25

And those were things on the agenda for the City in 2015 and moving forward, weren't they?---Correct.

30

Moving on, Ms Scaffidi - that document can be taken down, Madam Associate - did you have a meeting with Mr Stevenson and Councillor Davidson and Deputy Lord Mayor Limnios on 30 November 2015?---Don't recall exactly but that document was dated 30 November, wasn't it?

That was when it was forwarded to you, or sent to you by Mr Stevenson?---I just don't recall.

35

Did you have a meeting with Mr Stevenson on 30 November 2015 where you discussed - - -?---15?

40

Sorry, yes, 15, where you discussed the way forward?---I just don't remember the date specifically. I'm happy to say we did, I just don't recall. I don't recall.

45

Mr Stevenson has taken a note at the meeting and the note is made at 30 November 2015 and indicates that you, Mr Stevenson, Deputy Lord Mayor Limnios and Councillor Davidson were present at a meeting with him on that occasion?---Right, okay.

At which Mr Stevenson's note continues, and to be fair to you, I will ask for it to be shown to you. 14.0929, TRIM 13794?---So this is a handwritten note of his?

This is Mr Stevenson's note, yes. I just ask for you to read through the first page. I will ask you some questions and then I will move to the second page?--- okay.

5 On 30 November 2015, did you discuss Mr Stevenson's communications between you and he, with him?---Yes, I accept that we would have, based on his note.

So that's a yes?---Yes.

10 Did you, on 30 November 2015, talk to him about not having your back?---It's attributed to me there. That is his take. I'm happy to accept it but I do say it's being interpreted by you potentially as a different phrasing - - -

Ms Scaffidi - - -?--- - - - to how I would use it.

15 - - - you're not answering my question. My question was - - -?---He's attributed that comment to me.

20 My question is, on 30 November 2015, did you say to Mr Stevenson, "I don't feel you have our back"?---I don't recall. He's written it down as a note from himself.

25 Thank you, Ms Scaffidi, you've answered my question. If you turn the page, please. Do you see there, Ms Scaffidi, two pieces of text attributed to yourself, or three, I'm sorry? Just read through those?---I can't work out the word after "relationship" that's attributed to me "relationship" something "expressed".

COMMISSIONER: I think it might be "issue"?---"Relationship issue expressed", okay. Yes, I'm happy with that.

30 MS ELLSON: Did you speak to Mr Stevenson on 30 November 2015 about his relationship with you and an issue that you had with him?---I don't recall.

35 Did you speak to him about the staff dress code?---I had raised that issue with him a couple of times in one-on-one meetings with him. Whether I raised it there, I don't recall

[2.45 pm]

40 If the document can be taken down, please, Madam Associate. Do you consider that Mr Stevenson, on 30 November 2015, was not given the opportunity to speak to you about the issues?---No, he was given an opportunity.

45 But you don't remember the meeting, how are you certain about that?---I don't remember the meeting but I am a fairer person than that and I know that it would have been a - we wouldn't have been that one-sided. It was a serious issue and we would not have closed him down.

So you're guessing?---I'm not guessing, I just know how I operate.

5 Did you propose to Mr Stevenson on 30 November 2015 that you were going to accept option 1?---On 30 November, did we? My recollection is he went on leave and - - -

My question wasn't about Mr Stevenson's leave?---I don't remember the date. The date's causing me the problem.

10 The document can be taken down - it has been, thank you. Madam Associate, if the next document can be provided to the witness, please, 14.0953. Just before that goes up on the screen, Madam Associate, Ms Scaffidi, did you have a meeting with Mr Stevenson on 4 December 2015 to discuss his CEO Performance Review report to the committee proposed for January?---I don't recall, I'm sorry.

15 Did you discuss with Mr Stevenson on 4 December 2015 what form the report should be in to go to Council?---Sorry, what's the report?

20 The Performance Review report for 2015?---I don't recall and I don't feel I would have had that conversation on my own. It would have been a conversation for the committee.

25 Mr Stevenson again has taken a note on 4 December 2015 and has indicated that you, the Deputy Lord Mayor, Councillor Davidson and he met on 4 December 2015?---We met as a committee, okay.

30 Do you recall discussing as a committee on 4 December 2015 - - -?---Sorry, you asked me in the beginning if I had discussed with him but now it is a committee that's discussing with him?

That's correct?---Okay. If it was a committee meeting, I don't have my diary, I accept that if it was committee meeting, a discussion like that would have ensued.

35 And that's because the Performance Review reports need to go to Council, don't they?---Yes, but you were saying before, did I. I wouldn't have had a conversation with him without a committee on such a topic.

40 Do you agree that on 4 December 2015, Council had not yet made a decision about whether or not to let Mr Stevenson go?---Yes, I'm happy to say yes to that. I'm sorry, it wasn't a matter of letting him go - - -

You've answered my question, Ms Scaffidi?---Yes, letting him go, I don't like that phrase.

45 You've answered my question, Ms Scaffidi?---Mm hmm.

Ms Scaffidi, did you, on 4 December 2015, instruct your lawyers to obtain the

CCC information from the City's lawyers?---Again, I don't recall. These are four years ago.

Does it seem likely?---Yes, happy to say it's likely.

5

I will ask you to be shown a document at 14.0955, TRIM 19797. Do you see there a letter from Squire Patton Boggs, they are your solicitors, is that right?---Yes.

And they have written to Ms Stevenson of McLeods Barristers and Solicitors, do you see that?---Yes.

And they are one of the law firms that act for the City from time to time?---Right.

Just take a moment to read the letter?---Yes.

15

Do you agree you had instructed your lawyers to obtain from the City's lawyers the internal review Mr Stevenson had prepared?---I'm happy to accept that but I would have been working with my lawyer's advice. So yes, I'm happy to accept that.

They advise you, you instruct them, isn't that right?---Correct, yes.

And this was the same internal review that you had made previous requests for, wasn't it?---Yes, it must be.

Thank you, Madam Associate, that document can be taken down. I will ask you now to be shown a document at 14.0123 which is in a bundle of documents beginning at 14.0069. Do you see the first page, Ms Scaffidi? Please don't read it unless I ask you to?---Okay, I was looking - - -

14.0123 is the page that I need you to go to?---Sorry, 123?

Yes?---Right.

Do you have there a page headed, "Extract of WhatsApp chat-137", the top of the page?---"Very good discussions"?

Are you reading the top of the page? The question I asked you, Ms Scaffidi, and I haven't asked you to read page 122, I have asked you to read page 123, so do that, please?---I'm looking at 123.

40

Good. Just look at the heading, it says, "Extract of WhatsApp chat-137, "Team", do you see that?---Yes.

Do you recognise this page as another page of WhatsApp chats for your team?---I don't recognise the page but I accept it is, yes.

45

And you have referred to a sentence, "Very good discussions"?---Right.

Is that attributed to you?---It is.

5 Without asking you to read further, you agree that any chats in response to that would have been visible to you, don't you?---Yes.

That document can be returned, Madam Associate - actually, no, I apologise. Ms Scaffidi, I hope you still have your finger in 123 there?---That's okay.

10 If you could read to yourself, please, the page and then I will ask you to turn it over?---Keep reading?

Please read for me the first segment, the 6.11 pm message?---Yes.

15 And the next two?---The next two?

Stopping at 6.21 pm?---Yes.

Do you see that?---Yes.

20

Your message at the top says, "M'mm, possibility for sure", doesn't it?---Yes.

And that's in answer to a message sent by Mr Adamos at 6.10 pm?---Correct.

25 And you're agreeing there with what Mr Adamos said, aren't you?---Yes, I am.

Is it correct that on 14 December 2015 you had some discussions, which you've referred to in your first message, about Mr Stevenson?---Correct.

30 And did you discuss in those discussions what Council was going to do with respect to Mr Stevenson?---I would be presuming so I can't say definitively. I don't recall definitively, but it looks like it.

35 Do you agree that Mr Adamos is expressing some distrust about Mr Harley in his message that appears at 6.10 pm?---Correct.

You agree with that?---Yes.

40 Did you also have misgivings about the trustworthiness of Mr Harley as at 14 December 2015?---In regards to that statement - in regards to Councillor Harley's view on this matter, no.

With respect to Councillor Harley generally?---Yes.

45 And you made that known to your team members?---They knew.

The documents can be returned - please stopping reading them, Ms Scaffidi?---I'm

sorry, I wasn't. I was just looking at them.

5 I'm going to ask you now to consider some more WhatsApp messages that you've sent to Councillor Limnios. Have you ever referred to Mr Stevenson as a snake?---Look, you know, I may well have. I don't recall. I don't recall.

What makes you say as the Lord Mayor of this City that you may have referred to its CEO - - -?---Because you're going to show me - - -

10 - - - as a snake?---Because he was a very difficult person to work with.

That's not true, is it, Ms Scaffidi?---That's my opinion.

15 He was very good at his job, wasn't he, Ms Scaffidi?---Not in my opinion.

He was too good for you, wasn't he, Ms Scaffidi?---That's a very unfair statement.

20 I ask you now to be shown a document, 14.1593, in a bundle, Madam Associate, the bundle ending at 14.1610. TRIM 20594.

COMMISSIONER: Thank you.

25 MS ELLSON: Ms Scaffidi, looking at the top of the page there, do you see there what's described as "Chat-154, extract from Councillor Limnios and Lord Mayor Scaffidi, WhatsApp capture"?---Yes.

Do you see there on the third line of the typed text, next to the heading, "Participants", your WhatsApp information?---Correct.

30 Do you see here that this is raw data similar to what we have been looking at earlier today?---Yes.

I will ask you to turn to page 14.1595?---Yes.

35 Looking for the message, 12.12 pm?---Okay, got it

[3.00 pm]

40 Do you see there a message from you, "Trying to strike us one at a time now. He is a snake"?---No, I don't see that.

It's at the bottom line?---At the bottom, okay, yes, I do see it.

45 Turning the page, 12.15 pm, do you see your words, "He should do what we say, not what he thinks"?---Yes, I see that.

Are they your words?---Well, it's attributed to me so they must be.

At 12.23 pm, do you see your words:

5 *Yes, he's spoken to as I've kept on his case but each time I've said
update the EMs, Janet and Judy are not calling him. I think there's
nothing more to be said but as Janet said, hear the messages .*

And you go on at 1.10 pm - - -?---I just - - -

10 :

*Sent his reply and justification. We need a game changer which I have
been advocating for several months. I've been advocating. It's not up
to him to advocate, that's the point he doesn't get.*

15

Do you see that?---I see it.

And they are your words?---Can I just have a moment to re-read that because it's
20 very hard to just take it in with all this other data. I don't understand the grammar
there but yes:

*He's spoken to as I've kept on his case but each time I've said update
the EMs. Janet and Judy are not calling him. I think there's nothing
25 more to be said but as Janet said, hear the messages. We need a game
changer which I have been advocating for several months. I've been
advocating. It's not up to him to advocate, that's the point he doesn't
get.*

I don't recall this but I accept that I said it at the time.

30

And these are references to Mr Stevenson, aren't they?---Yes.

Thank you. That document can be returned. It's not appropriate for the Lord
Mayor of the City of Perth to refer the Chief Executive Officer of the City of Perth
35 as a snake, is it?---Well actually, it wasn't just me referring to me with that word, it
was always - - -

It was in those messages, wasn't it?---In those messages, yes, but verbally - - -

40 And that's not appropriate?---Verbally, it was also - - -

And that's not appropriate?--- - - - Councillor Limnios. No, it's not but that was
the term that had been chosen.

45 Ms Scaffidi, you've answered my question. I'm going to ask you another
one?---Thank you.

Ms Scaffidi, did you receive from Mr Stevenson the internal review that you had been after?---I'm sorry, I don't recall.

5 Ms Scaffidi, I'm going to ask you now to be shown another document, 14.0970?---Okay.

Do you see there an email from you in the middle of the page at 5.37 pm, 14 January 2016?---Yes.

10 Do you see there you appear to be acknowledging receipt - - -?---Yes.

- - - of various letters from the CCC and from 2015?---Correct.

15 You ask Mr Stevenson why he sent it to you today?---Yes.

With no explanatory note?---Correct.

You go on to say:

20 *When it was requested for last year by my lawyers in writing and you refused to provide and confirmed so in writing?*

Do you see that?---Yes.

25 Do you accept that on 14 January 2016 you received from Mr Stevenson the internal review that you had been asking for repeatedly?---I do because of what I'm seeing here. I don't specifically recall it right now.

30 What was in the internal report?---As I say, I don't specifically recall it now.

Did it concern you specifically?---I don't recall.

35 You do remember, Ms Scaffidi, don't you?---I don't recall whether it was a letter or a report. At this point in time, I do not recall.

I'm asking you what was in it, Ms Scaffidi?---In the internal review?

Yes?---I don't recall.

40 It concerned you, didn't it?---I do not recall.

I ask you to be shown a document - the TRIM number for this document was 13799.

45 COMMISSIONER: Thank you.

MS ELLSON: I'm going to document 14.2087. You see here a letter to the

Commissioner of the Corruption and Crime Commission on City letterhead?---Yes.

From Mr Stevenson?---Yes.

5

And it's dated 26 August 2015?---Right.

Do you see that?---Yes.

10

Do you recognise that document as a document Mr Stevenson provided you on 14 January 2016?---I don't recall it. There's just been so much going on, I don't recall it.

15

Do you need a break, Ms Scaffidi?---No, I don't need a break. I've had thousands of documents to deal with over the last four years. I'm happy to accept it as the document. I don't specifically recall it.

20

Ms Scaffidi, is your memory going fuzzy because we are getting to the pointy end of things?---No, not at all. In fact, I'm doing my utmost.

25

You had a lot of documents to read through this morning and your answers were quite clear and you had memories of things that were perhaps somewhat obscure, but now when we are looking at this, you can't remember?---I don't recall seeing this document. Maybe if you show me another couple of pages of it, I might remember some of it.

30

Do you remember the letter?---Specifically right now, I don't remember the letter. I'm not saying it doesn't exist or that he didn't give it to me, but I just don't recall it at the moment.

35

Madam Associate, could you turn the page, please, to 14.2088?---This one, I remember.

And 14.2089, please, Madam Associate?---This one I remember.

And 14.2090?---That's just one paragraph.

40

If you could take that down, please, Madam Associate?---I don't recall the cover page.

You said, Ms Scaffidi, you remember the documents, the three pages that I showed you, from 14.2088 to 2090; what is it about them that you remember?---I remember the spreadsheet. I didn't remember the covering letter.

45

And you recognise the spreadsheet as the one Mr Stevenson gave you on 14 January 2016?---Yes.

That document can be taken down, please, Madam Associate. Madam Associate, if you could bring up again 14.0969, please. Do you see here on this page, a reply Mr Stevenson is providing you? This page follows on from the one we were looking at dated 14 January 2016, 5.37 pm, Ms Scaffidi. Do you need to see that email again?---No.

Do you see here on page 14.0969 at 4.52 pm, Mr Stevenson replying to your query about him leaving the documents for you?---About him what, the documents? Sorry, what did you, clearing the documents?

Leaving?---Leaving the documents. Yes.

Mr Stevenson sets out a chronology of events?---Yes.

And indicates that you had been on leave and he was waiting for you to come back and left the documents for you to collect?---Correct.

And in reply to that, 15 January 2016, 4.58 pm, you say, "Thanks"?---Correct.

Nothing else?---Looks like that's just all I've said.

You've been asking for these documents for several months, hadn't you?---Yes.

You had been asking for these documents through your lawyers to various places, hadn't you?---Yes.

And all you had to say to Mr Stevenson after he gave them to you and explained to you why it took him as long as it did was "Thanks", was it?---Yes. I might have been in the car going somewhere or I might have been out and I thanked him. I acknowledged receipt.

Do you use your email in the car?---Often.

Did you, that afternoon after that, have a meeting with Councillor Davidson and Deputy Lord Mayor Linnios and Councillor McEvoy to discuss Mr Stevenson?---Again, I don't recall. If it was in my diary - I don't recall.

Do you recall having a meeting with those people at all on 15 January 2016?---I don't remember the date. I do believe we had a meeting and the reason Councillor McEvoy was included would have been as a senior Councillor.

Why did Councillor McEvoy, as a senior Councillor, have anything to do with Mr Stevenson at that stage?---I don't recall that.

She had no place at that meeting, did she?---Not really, no.

And yet, you invited her?---I don't know who invited her. Maybe I did. Obviously

the other two were in concurrence with it. I don't recall the specifics.

She was one of the members of your WhatsApp team, isn't she?---Correct.

5 So she's a member of your team?---Correct.

Did you, on 15 January 2016, after you replied to Mr Stevenson, speak with the Deputy Lord Mayor, Councillor Davidson, Councillor McEvoy about agreeing on option 1?---I think we did, yes. I believe we did.

10

Did you talk about speaking to a lawyer about cutting off Mr Stevenson's services by 3 pm?---By 3 pm when?

15 It's not specific?---We did speak to a lawyer. We did speak to a lawyer and that was with Janet and myself. I believe James was involved in - he definitely had knowledge of that. We did seek external legal advice, yes.

About what? About cutting Mr Stevenson's services off?---My recollection is that we were going with option 1.

20

And you made that decision on 15 January 2016 after you sent "Thanks" to Mr Stevenson?---The timing is, yes, the same date.

Same time after you replied to him?---Similar time.

25

Did you develop a plan with Councillor Davidson, Deputy Lord Mayor Linnios and Councillor McEvoy at your meeting to convene a Special Council Meeting, to have Councillor Davidson meet with Mr Stevenson, did you do those kinds of things?---Davidson meet with Stevenson?

30

Or to email Mr Stevenson to arrange a meeting with him on Monday, the 18th in your office?---I don't recall specifically but there was a meeting with Stevenson later on, so it must have been.

35 In your meeting with Councillor Davidson, Councillor McEvoy and Deputy Lord Mayor Linnios, did you agree that the next step after a meeting with Mr Stevenson on Monday, the 18th, would be to advise Mr Stevenson of the outcome of the discussions of the Elected Members, indicating to him that all had agreed to accept option 1?---Well, all had only agreed if all had been spoken to and I've got a
40 recollection that there were phone calls with the other Councillors.

[3.15 pm]

45 When?---When? Clearly it must have been from the time of that meeting until the next meeting.

So is it your evidence that on 15 January 2016 after you'd replied to Mr Stevenson,

that various Councillors were called to ascertain their views?---Definitely, and all Councillors gave their views of agreement and I have a recollection that Councillor Green's views were shared in agreement but we did acknowledge that she had not worked very long with Mr Stevenson.

5

What did you tell each Councillor about the reason - - -?---I don't know that I spoke to each Councillor.

10 What did the committee want each Councillor to know about Mr Stevenson's departure on 15 January 2016?---My recollection is that we were very conscious of not giving the 16 page document to each Councillor to read out of respect for his dignity and the confidentiality of that, which was written to the CEO Committee, performance committee and I have a recollection that each Councillor would have rung other Councillors. So I think there would have been a division - - -

15

But you don't know?---No, I'm pretty sure.

20 My question to you was, what did the committee want each Councillor to know on 15 January 2016 about Mr Stevenson leaving?---About him leaving? Well, it was acceptance of option 1 in that document.

Who, as at 15 January 2016, had accepted option 1?---No-one.

25 You referred to the fact that you were very conscious of not giving the Councillors the 16 page document to read out of respect. The 16 page document was Mr Stevenson's submission to the CEO Performance Review Committee, was it?---Yes, it was, but it was given to the CEO Performance Review Committee.

30 Did you not want that document to go before Council?---I didn't - actually, I don't think that was discussed. It wasn't a matter of it going - well, Council meeting, Council.

You said you were very conscious of not giving - - -?---Yes, I did say that.

35 Yes, so tell me whether or not you wanted that document to go before Council?---That was a view shared by the three.

I'm asking about you?---I said that I said that.

40 You did not want that to go to Council?---No, it wasn't that I didn't want it to go to Council, please don't change the words - - -

45 They were yours?---Yes, but my view was that it was a very detailed document. We were respecting his dignity of the personal details contained within and there was a discussion with the other two Councillors and this was not my agreement on my own. I couldn't make such an agreement on my own. It was clearly discussed with the other two members of the CEO Performance Review Committee.

And Councillor McEvoy?---And Councillor McEvoy.

5 Did you - you plural, you CEO Performance Review Committee and Councillor Davidson - agree on what document should be put before Council - - -

COMMISSIONER: Councillor Davidson or Councillor McEvoy?

10 MS ELLSON: Sorry, and Councillor McEvoy. Thank you, Commissioner. Did you agree on what documents ought to be given to Council when you met on 15 January 2016?---I would have to say yes to that.

15 And what were they?---Given that it wasn't that document of the 16 page response from Mr Stevenson, it would have been the collated document of the CEO Performance Review.

You agreed with Councillor Davidson to provide Council with the 16 page document after all, didn't you?---I don't recall.

20 If it went to Council, you did agree?---I just don't recall, I'm sorry.

25 Would you, as a member of the CEO Performance Review committee, let a document go to Council affecting or concerning the CEO's performance if you did not agree?---Yes, I would let it go.

You wouldn't, would you?---I didn't have a problem with the document.

You would let it go to Council?---I wouldn't.

30 You would not let it go to Council?---I didn't make the decision unilaterally.

35 If a decision were made by the CEO Performance Review Committee, Councillor Davidson or Deputy Lord Mayor Linnios, to have the 16 page document that Mr Stevenson prepared go to Council, you would have been part of that decision to let it go?---Yes.

40 The document can be taken down, please, Madam Associate. Ms Scaffidi, if you were so concerned about Mr Stevenson's dignity with respect to his 16 page document, why did you let Councillor McEvoy attend the meeting on 15 January 2016?---I don't remember.

It was because she was on your team, wasn't it?---Well, you know, that's your choice to put it that way. I could also say she was the most senior Councillor.

45 I'm going to ask for a document bundle to be provided to you, Ms Scaffidi, starting at 14.0069 - I'm sorry, not that one, Madam Associate.

COMMISSIONER: Ms Ellson, I propose to take a short break in a moment out of fairness to the witness. Would now be a convenient time to take a short break?

MS ELLSON: Yes, Commissioner.

5

COMMISSIONER: Would 10 minutes be sufficient for you?

MS ELLSON: Yes.

10 COMMISSIONER: I will adjourn for 10 minutes.

WITNESS WITHDREW

(Short adjournment)

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HEARING RECOMMENCED AT 3.40 PM.

COMMISSIONER: Ms Scaffidi, I apologise for the slightly longer adjournment.
5 A matter arose during the adjournment which needs to be dealt with and I will deal with it now, before we return to your evidence.

Mr Skinner, I'm conscious that you and/or your associate have been present in the hearing well of the hearing room throughout today's proceedings and I, of course,
10 am conscious that your client's name, Mr Limnios, has occurred a number of times. So I imagine you're now at the Bar table seeking leave to appear and I will of course grant that. Do you have any - - -

MR SKINNER: No, sir, I believe it's deeper than that. I have not been here for
15 the entirety of the day, sir.

COMMISSIONER: Has your associate?

MR SKINNER: Sorry, my associate is a law clerk, he's not admitted. However,
20 he has been here for the day. I have not. What I do have concern about, sir, is that the matters that have been raised today bear upon my client, answers that have been given bear upon my client. What's more, and I believe as an officer of the court I need to say, they bear upon other people, for example, Ms Davidson.

COMMISSIONER: We will just limit it to your client.

MR SKINNER: Sorry, as an officer of the court, sir, I believe it's incumbent upon
me to say, it could bear upon Councillor Davidson, whose counsel is not here. I've
30 been given an email which makes it clear when a witness appearing may give evidence upon a matter which would impact upon my client. I presume other people have as well and what I'm saying very clearly is, I have not been here for a significant period of time when open-ended questions have been asked of a witness, in which there could be an adverse finding made against my client and I believe that is a denial of procedural fairness.

35 I have not had a full time to actually articulate it, but I just want to make it clear, sir, my client, whilst I have been here, has - there have been questions raised about specific meetings where my client was apparently in attendance - I don't know about them but apparently in attendance, where my client has apparently done
40 certain things and he's not had the ability to actually be appropriately represented in relation to that. Certainly, I wasn't here for the morning and I've been informed by Mr Purdy that there were several other things that were mentioned and I will have to clarify that, but it's more than just an application for leave to appear, sir.

45 I wish to make it very, very clear that it's not simply that. It is, I believe, a denial of procedural fairness that we were not - that we were specifically advised by the Inquiry of when, and I will read it out for the benefit of the transcript:

For your reference, other witnesses appearing on 28-30 August 2019 and 3 and 5 September 2019 will give evidence on topics in which your client may have an interest.

5

The only possible thing that you can assume from that is that on the other dates there's not. So I consider it to be a denial of procedural fairness. I raise that for the Inquiry. I do seek leave to appear now, and I will file the necessary application, but I wish to make that clear.

10

COMMISSIONER: Thank you, Mr Skinner.

MR SKINNER: Thank you very much, sir.

15

[3.45 pm]

COMMISSIONER: Ms Ellson, do you wish to say anything in response to that?

20

MS ELLSON: I intend to cover the material with each person as it is appropriate, Commissioner.

COMMISSIONER: Yes, and do you wish to address specifically Mr Skinner's concerns at this point in time?

25

MS ELLSON: No, Commissioner.

COMMISSIONER: Very well. Thank you, just take a seat. Mr Skinner.

30

MR SKINNER: Sir, the fact that Counsel Assisting - - -

COMMISSIONER: I'm about to address you.

MR SKINNER: I do apologise.

35

COMMISSIONER: That's all right.

MR SKINNER: I sincerely apologise.

40

COMMISSIONER: Please don't remain standing. Mr Skinner, I want to assure you first of all that procedural fairness will be afforded to your client and to every other witness who appears before this Inquiry. As you would know, whether or not procedural fairness is afforded always depends on the circumstances. I can assure you that if I am considering any adverse findings against your client, he will have an opportunity to respond appropriately to any such adverse findings. I

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understand fully the submissions you have made and I can assure you that I will give consideration to those submissions and act appropriately on them, but you need not be concerned that your client will not have an adequate opportunity to

respond to the allegations that concern him, which may result in potential adverse findings. That goes for every other witness in a similar position who appears before this Inquiry, and I confirm that you have been granted leave to appear now.

5 MR SKINNER: Thank you very much, Commissioner.

COMMISSIONER: Thank you, Mr Skinner. Ms Ellson.

MS ELLSON: Commissioner.

10

COMMISSIONER: Now that we have dealt with that matter, are you ready to proceed?

MS ELLSON: I am, yes.

15

COMMISSIONER: Please do.

MS Lisa-Michelle SCAFFIDI, recalled on former oath:

20 MS ELLSON: If the witness could please be shown the document in a bundle beginning 14.1721, ending 14.1868. Ms Scaffidi, you have there again what is labelled chat-154?---Yes.

25 And you recognise your WhatsApp number at the top of the page next to, "Participants"?---Yes.

I ask you to turn, please, to page 14.1857 which is down the back, right near the back?---157, yes.

30 Do you see here a conversation beginning at 7.39 am on 18 January 2016?---Sorry, what time?

7.39, and that's not you?---Okay.

35 The next message is yours, 7.40 am?---Correct.

It says:

40 *Definitely meeting required. See you at my office. Make no mistake, this is not going to be easy.*

Do you see that?---Yes, I do.

45 Is that a reference to a meeting required to talk about Mr Stevenson?---Yes, it would be.

The next message from you is at 7.41 am?---Sorry, which time again?

Skip one, 7.41 am?---Right, okay.

5 You saw his reply "re 24 hours notice. Since when was 24 hours notice a policy", do you see that?---Yes.

That's your message?---Yes.

10 Skip one, 7.42 am, "It shows he knows you mean. How is the queue", that's your message?---Yes.

Skip one, your name is just above the page number?---Right.

15 7.43 am, "You mean as in bugging you think"?---Yes.

Did you think Mr Stevenson was bugging your office?---Well, just let me read back what was said before that, sorry. "He's listening to your office", well, James is making that allegation.

20 I'm not asking you about that, I'm asking you about what you meant as in, "You mean as in bugging you think"?---Yes, so I asked him for clarification.

25 And the next message is not yours and then we move to 7.44 am and your message says, "He offered option 1, we are resounding. He's been in the office all weekend, sat and" - I presume you meant sun?---Yes.

"For several hours", that's your message?---Yes.

30 The following message is yours at 7.44 am and it says, "Responding that was", doesn't it?---Yes, but I don't know understand why I've said that, but anyway, yes.

Okay, it's your message?---I see why I said that.

35 COMMISSIONER: It may be a reference to the previous one?---Yes, I said resounding, I meant responding.

Yes?---Okay, I've got it, "We are responding", yes. Interesting choice of word.

40 MS ELLSON: The next message is not yours at 7.45 am. The message following on from that, 7.45 am, "We have to" - - -?---Just a second. I've never seen WhatsApps like this, so yes, I'm following. 7.45, I've got it.

7.45 am?---Yes.

45 "We have 2.30 pm. You were CCed on that", do you see that?---Yes.

That's your message?---Yes.

The next message is yours again, 7.46 am?---9.30.

5 7.45 am, "9.30 is our re-run on how we will proceed", do you see that?---Correct, yes.

10 You're indicating here that you're going to run through the plan that you had made on 15 January 2016?---I don't recall that but it sounds to me like we were agreeing on the process of the meeting.

15 Which meeting?---The meeting we were about to have with Mr Stevenson - were we?

20 The next message is not yours. The one after that, 7.46 am, you say, "Sorry, yes"?---So what did I say, "Sorry, yes", that he said - okay.

25 The next message is not yours. The message at 7.51 am is attributed to you, do you see that?---7.51, yes.

30 It says, "Okay. I was asleep last night when she sent all those. I've just called her and told her before the 9.30 to have further replied to him and" - I think you meant locked, is that right?---I think I did.

35 "Locked in a time ASAP. Hope it's today", is that right, they are your words?---Yes.

40 Is it correct to think that here you're contemplating having a meeting with Mr Stevenson to discuss option 1 with him, or the fact that you had agreed on that on the 18th?---I believe it was to have a meeting with him.

45 About option 1, and you hoped it was on the 18th?---Yes. I believe it was a meeting with him. I can't say categorically if it was option 1 but I think it sounds like it was option 1 from what I'm reading there.

50 You contemplated the offer of option 1 at 7.44 am?---Yes, we contemplated the offer of option 1.

55 The next message is not yours?---Right.

60 The message following that, 7.53 am, "He's buying time. Tell you it's like slaying Satan", do you see that?---Yes.

65 Is that a message relating to the termination or the dismissal of Mr Stevenson?---Yes.

70 It's not fitting of a Lord Mayor to refer to the CEO of the City Council as Satan, is it?---No, it's not and I accept that.

You shouldn't have done it?---People say things that, you know, they are not expecting - - -

5 You shouldn't have done it?---Well, no. People say this sort of stuff all the time.

You're not people, Ms Scaffidi?---People are speaking colloquially.

You're not people, Ms Scaffidi?---No, even Lord Mayors.

10

You're the Lord Mayor of this capital city, this is not conduct befitting our Lord Mayor, is it?---Okay.

15 The next message is not yours. The next message, 7.56 am?---Sorry, just a second. 7.53, then 7.54 is not mine. 7.56, yes.

8.04 am is your message, "I am upset she didn't respond promptly to lock in an alternative time"?---Yes.

20 You're talking there about making efforts to arrange the meeting with Mr Stevenson, weren't you?---Must have been, yes.

The next two messages are not yours?---Hang on a second. Yes.

25 They are not yours. The next message, 9.25 am is your message?---Yes.

"OK, Janet's here. Gary in DLG all day, we've just found out", do you see that?---Yes.

30 Is that a reference to Mr Stevenson not being available to meet with you on 18 January?---It must have been, yes.

The next message is not yours. The message following on from that is 9.35 am, do you see that?---Just repeat the time?

35

9.35 am?---Mm hmm.

And you asked, "You far"?---Correct.

40 The documents can be returned, Madam Associate, please. Did you agree on a time for Mr Stevenson to meet with everyone?---Meaning the CEO Performance Review Committee?

Yes?---I don't remember.

45

I will ask you, Madam Associate, please, to bring up on the screen 14.2035, TRIM 23134?---Okay, I've seen it.

You see there an email from Councillor Davidson to Mr Stevenson?---Yes, I do.

5 Requesting a meeting with him on Monday, 18 January?---Yes.

Do you see above that an email from Mr Stevenson indicating that he can't meet at that time, noting that he had had less than 24 hours notice?---Yes.

10 Madam Associate, if we could move to 14.2034. Do you see there an email from Councillor Limnios, 9.54 am, to Mr Stevenson?---I'm sorry, who's that from?

Mr Limnios, do you see his name?---Yes. Okay.

15 And above that is Mr Stevenson's email at 10 am on 18 January?---Yes.

And that indicates that he has advised Councillor Davidson that he has commitments on the 18th and can't meet with you, is that right?---Yes.

20 Turning, please, Madam Associate, to 14.2033. On 18 January 2016 at 10.05 am, Councillor Davidson suggests a meeting on Wednesday instead?---Yes.

And Wednesday is 20 January 2016, will you accept that?---Yes.

25 Above that is a signature from Mr Stevenson. If we turn the page, please, Madam Associate, to 14.2032, do you see there an email from Mr Stevenson at 10.06 am, at the bottom?---Yes

[4.00 pm]

30 Mr Stevenson's suggesting 11 o'clock?---Right.

Then an email from you at 18 January 2016, 11.47 am. You wanted to meet at 8.30 am, do you see that?---Yes.

35 And that's because you had interviews later?---Yes.

That's your email to Mr Stevenson in relation to a potential time for a meeting on the 20th?---Correct.

40 14.2031, Mr Stevenson replies at 11.52 am, do you see that?---Yes.

And he's indicating that he has to leave at 9.30 am?---Yes.

Then you say, "Okay, let's do that time"?---Yes.

45

Was that time 8.30 am?---I presume so.

Thank you, Madam Associate, those documents can be removed. Did the CEO Performance Review Committee members meet with Mr Stevenson or meet each other on 19 January 2016?---I'm sorry, I don't remember.

5 Do you recall meeting on that day at all?---That was the Tuesday, was it?

Yes?---I don't remember but it would have been in my diary if we did.

Sorry, Commissioner, I won't be a moment.

10

COMMISSIONER: That's quite all right.

MS ELLSON: Mr Limnios has kept some notes in relation to some meetings that occurred on 15, 19 and 20 January?---Mm hmm.

15

If you assume what is in them is correct, Mr Limnios indicates that on 20 January 2016 there was a meeting about Mr Stevenson and there was to be an 8.30 meeting with him and a 9.30 Special Council Meeting - my apologies, I'm talking about the 19th, not the 20th. So I'm talking about the Tuesday?---Right.

20

Do you accept that?---Yes.

Do you accept that on 19 January 2015 you and the CEO Performance Review Committee, or you were accepting any reason termination clause for Mr Stevenson?

25

COMMISSIONER: Did you say 15 or 16?

MS ELLSON: Of?

30

COMMISSIONER: I thought you said 19 January 2015?---Yes, she did.

MS ELLSON: That's what it says. It says 15, the note, it will become apparent that I mean 16.

35

COMMISSIONER: Very well?---Sorry, I'm now confused. The note says - - -

MS ELLSON: My apologies?---That's okay.

40 The note says "we", being you, as a member of the committee "are accepting any reason termination clause" for Mr Stevenson; was that correct at 19 January 2016?---Sorry, I just need you to repeat that because I'm just trying to get the dates in my head again. You're saying the note is of the 15th?

45 The note is on the 19th?---The note - which is the Tuesday.

Which is the Tuesday?---Right.

And it says you, being you as a participant in the meeting "are accepting any reason termination clause" for Mr Stevenson?---Yes. Does it point out anything else?

5

Do you think it does?---I've never seen the note.

Do you remember the meeting?---I don't remember the meeting.

10 So you can't tell me if it says anything else?---No, I can't.

Sorry, you can't tell me if anything else happened at the meeting?---No, I can't.

15 Did you and fellow committee members consider that you would hold firm for Mr Stevenson not to work out his three month notice period?---I do recall that there was a stated agreement between everyone to the effect that the relationship was broken and that there was a preference for it to be terminated, as in that, yes.

20 And that agreement was reached with whom?---Well, the committee of the three and I know that we wouldn't have just made that decision being aware of the need to get a proper consultation with the others. I can't recall but I think there were phone calls.

25 Did you make any?---I would have made one or two.

Would have or did?---Did, sorry.

To whom?---I believe - well, my recollection is that I would have spoken to Jim.

30 You would or did?---Sorry, it's just my way of speaking - did speak to Jim. I think James would have called Lily - I'm just trying to - - -

35 You don't know?---Just a minute, I will just try and really think back. I believe I would have spoken to Jim. I can't recall speaking to others but I know that the process would have been shared.

Did anyone speak to Mr Stevenson?---Not at - I don't recall.

40 So as at Tuesday, 19 January when you had this meeting, Mr Stevenson had not agreed?---If we had the meeting on the Tuesday, I'm accepting that we may well have. The discussion would have been re option 1 and I do recall a preference being expressed to terminate completely, not to allow the three months.

45 I will ask my question again, Ms Scaffidi, because you didn't answer it?---I'm sorry.

Is it correct to think then that as at 19 January 2016, Mr Stevenson had not agreed

with you about option 1?---Would be correct.

5 In the meeting on 19 January 2016, did you discuss Mr Stevenson's IT access and terminating it after he signed a deed of termination?---I don't recall specifically but I do have a faint recollection that that was a broad topic of discussion.

On 19 January 2016 at 1.10 pm, did you have a formal meeting of the Employment Committee?---Sorry, the date again?

10 19 January, on the Tuesday at 1.10 pm?---I recollect there was a meeting and Janet took minutes to that, I think, yes.

That was a committee meeting, was it?---Yes.

15 Was it usual for a Councillor to take the minutes at committee meetings?---No - normally it would be an officer so yes, it is unusual but Janet did.

Why? Is it because you had the meeting in a hurry?---No, I would say it was more the confidentiality concerns.

20 Minute takers attend confidential items in Council all the time, don't they?---Yes.

There's no special reason to treat Mr Stevenson's employment any different, is there?---True.

25 So it's no good reason for someone not taking the minutes, was there, someone other than Councillor Davidson?---I wouldn't have made the decision on my own but yes, I agree with what you're saying.

30 As the Lord Mayor, you would have spoken up if you thought anything wrong was happening, wouldn't you?---I didn't think anything wrong was happening. I think it really was out of concern for the confidentiality and I hear what you say about the Governance Officer but we were taking it very seriously and obviously not wanting the potential for any leak.

35 You were taking shortcuts, weren't you?---No, they are your words.

I will ask you now to be shown a document in volume 9 at .0171. Ms Scaffidi, do you see here an agenda dated 19 January 2016?---Yes, I do.

40 Do you see that it's been approved for release - I'm not sure if you can make out the signature but it appears - - -?---I can.

- - - to be signed by Councillor Davidson?---Correct.

45 It's usually the CEO who signs these things for public release, isn't it?---Yes, it would be.

This is an unusual thing to have Councillor Davidson sign it, isn't it?---Yes.

5 Did you authorise that?---I'm not required to authorise it, whether it's the CEO or Councillor Davidson signing it.

Did you notice it happening?---Yes, I would have been aware of it happening.

10 Did you say anything to Councillor Davidson about signing this off instead of the CEO?---No, we would have been in agreement on it because of the confidentiality concern.

15 As the Lord Mayor, you should have raised it with Councillor Davidson, shouldn't you?---We would have discussed it.

That's not my question, Ms Scaffidi?---I'm sorry.

20 As the Lord Mayor, you should have raised it with Councillor Davidson, shouldn't you?---We did discuss it.

Were you comfortable with Councillor Davidson signing these agenda papers instead of the CEO?---I would say, yes.

25 You shouldn't have been, should you?---The confidentiality was the concern.

The CEO of the City of Perth is exposed to all manner of confidential things, aren't they?---He is, yes.

30 And certainly the CEO Performance Review Committee business is very much his business, isn't it?---True.

So it makes no sense that he wouldn't be the person approving the minutes of the committee meeting, does it?---I accept that.

35 And you didn't make that known to your fellow Councillors, did you?---Well, I don't believe we didn't. I can't recall.

That's not my question?---I can't recall is the answer to that question.

40 Could you turn the page, please, Madam Associate, to 9.0173. Do you see here what appears to be minutes of a meeting on 19 January 2016?---Yes.

The minute taker is Ms Smith?---Yes.

45 There doesn't appear to be anyone from Governance and there doesn't appear to be Mr Stevenson present, does it?---No.

Ms Smith is your personal assistant?---Correct.

She doesn't usually take minutes either, does she?---No.

5 Did she take the minutes because you were taking a short cut?---No, she took the minutes because we were concerned about confidentiality

[4.15 pm]

10 So it was all right for your PA to know all about the business of the CEO's Performance Review, but not members of Governance, is that what you're saying?---Well, we had had the meeting there and the three of us agreed that Angela could act as the minute taker so yes, I see in this context, it wasn't appropriate compared to a Governance Officer, but that was a decision made by
15 the three of us.

You're the Lord Mayor and responsible ultimately for the decision here, aren't you?---We are all equally responsible.

20 You're the leader of the Council, aren't you?---My vote has no extra weight to anyone else's.

You didn't vote on who took the minutes, did you?---Well, it's - no-one has any extra power per se.

25 You used your PA to take the minutes, didn't you?---Yes.

That was unusual, wasn't it?---Yes.

30 And it was unusual because you took a short cut, didn't you?---We were concerned about the confidentiality.

And that makes no sense, does it?---To me, it does.

35 If you turn the page, Madam Associate, please. Do you see there three resolutions of the committee?---Yes.

Do you see there reception of the notes of the appraisal from the Elected Members and Directors?---Sorry, which paragraph is that in?

40 Number 1?---Sorry, "Received and notes" - yes.

Do you see there reference to a 16 page confidential document?---Yes, I do.

45 And you discussed the findings with Mr Stevenson?---Right.

Do you see there an option 3(a), "Accepts the option 1 offer on 30 November 2015

by the CEO, Mr Gary Stevenson, that relates to 8.5 of the employment contract, termination by the City - any reason"?---Correct.

At this stage Mr Stevenson knew nothing about that, did he?---Correct.

5

You didn't want him at the meeting because you didn't want to tell him then, did you?---I beg your pardon?

10 He wasn't at the meeting because you didn't want him there, did you?---It wasn't that I didn't want him but he wasn't at the meeting.

He wasn't at the meeting because you didn't want him there, did you?---Well, again, my decision was not the only decision, it was a decision among three.

15 Mr Stevenson was not at the meeting because you did not want him there, was he?---It wasn't my decision alone.

You're a member of the committee?---Yes, it was a committee decision.

20 You're an independent member of the committee?---Yes, but it was discussed and
- - -

You didn't want him there, did you?---I would have been happy to discuss it with him there and then. I don't know if - - -

25

That's not true, is it, Ms Scaffidi?--- - - - missing the point of your question.

You wouldn't have been happy to discuss it with him then and there because you'd made an appointment with him to attend a meeting on 20 January at 8.30 am, hadn't you?---Yes, that's correct.

30

So you had this meeting without telling him about it so you could do what you wanted to do behind closed doors, isn't that right?---All concurred with what played out, so I was a party to it, I accept that.

35

You led this party, didn't you, Ms Scaffidi?---No, I did not lead it. Councillor Davidson is the Chair of the committee and the three of us would have been in equal agreement.

40 You were part of the agreement?---I was part of it, yes.

So it follows that you did not want Mr Stevenson at the meeting, doesn't it?---As one of three, yes.

45 You're the Lord Mayor, Ms Scaffidi?---Yes.

You hold yourself to a higher standard than other Councillors, don't you?---Lord

Mayor is an Elected Member like the other eight.

5 You are the leader of the Council, aren't you?---My vote, my representation doesn't lead in regards to everyone's opinion. It is no more powerful, nor less powerful. It is the same.

10 Your role is to liaise with the Chief Executive Officer, isn't it? No-one else has the power to do that on matters involving Council?---It was agreed between the three - -

That wasn't my question, Ms Scaffidi?---I know that but I'm trying to answer it.

15 Then you need to answer it directly. Your role is to liaise with the Chief Executive Officer of the Council, isn't it?---Yes.

You did not do that on this occasion?---No, we did not.

Not we, you?---No, I did not.

20 You did not do that?---No, I did not.

You should have, shouldn't you?---So I should have unilaterally told him what was occurring?

25 You should have liaised with the Chief Executive Officer about this meeting, shouldn't you?---Well, I didn't and that would have been not in concurrence with how the other two were of the view the meeting was going to occur the next day.

30 Madam Associate, if you could turn, please, to page 9.0175. Do you see here, Ms Scaffidi, at 3(b), a resolution that:

35 *Council negotiates with the CEO for a mutually agreed separation which is supported by a Deed of Settlement and Release that includes payment to the CEO of 100 per cent of the total annual remuneration or 12 months, plus any accrued entitlements.*

Do you see that?---Yes.

40 That hadn't been settled by Council, had it, by then?---The Council hadn't voted on it but I believe that the Councillors had been contacted and it had been explained.

It wasn't settled by Council, was it?---No, settled is - yes, but it's saying Deed of Settlement.

45 The Chief Executive Officer had not been consulted about this either, had he?---No, that's true.

The CEO Performance Review Committee can't make resolutions on behalf of Council, can they? They can only make recommendations?---Can you repeat that, please?

5 The committee cannot make resolutions on behalf of Council, can it, it can only make recommendations?---Yes, it was a bit futuristic, that paragraph.

The next point, you're calling a Special Council Meeting on Wednesday, 20 January 2016 at 9.30 am to consider the minutes, recommendations of the CEO Performance Review Committee, do you see that?---Yes.

Had you provided the CEO with notice of the Special Council Meeting at the time this was resolved by the committee?---Had we - sorry, can you repeat that?

15 Had you notified the CEO of the Special Council Meeting?---No.

Why not?---I don't recall.

You should have, shouldn't you?---Yes, I think it would have been appropriate, in hindsight.

Because you're required to under the Act, aren't you?---Well, yes.

Next, point 5:

25

Recommend to the Special Council Meeting that Mr Martin Mileham be appointed as Acting CEO for the City of Perth following the negotiated settlement.

30 Do you see that?---Yes, I do.

Committee has no capacity to make a recommendation to a meeting that hasn't occurred yet, does it?---True.

35 So this is a - what is this? This is an extension of the committee's powers beyond which they have been granted, isn't it?---Yes.

In fact, all of the resolutions made here are the same, aren't they? They are all resolutions, they are not recommendations?---The last one is a recommendation.

40

The five before it?---Four before it?

The five, there's two 3s?---It doesn't use the word "recommends", so yes, I'm happy to accept that it's not.

45

They are not recommended because you had already resolved it, hadn't you?---I think it's an error that the word "recommend" wasn't put in front of all of the

aforementioned five points.

Could that error have occurred because the person usually responsible for taking the minutes wasn't there?---Yes.

5

Could the way in which the recommendations were framed have occurred because the usual minute taker wasn't there?---Yes.

You had this meeting in a hurry, didn't you?---No, I don't believe it was in a hurry but I do accept that the wording isn't correct.

10

I note the time, Commissioner.

COMMISSIONER: Yes. Do you have much more to go?

15

MS ELLSON: I do have some small way to go with this topic, yes, small being longer than half an hour, Commissioner.

COMMISSIONER: While it might be desirable to finish this today, I'm conscious that the Inquiry has another commitment in four minutes, another witness. So we will not complete this today. I regret that, Ms Scaffidi. I will adjourn the Inquiry to a public hearing at 10 am tomorrow morning.

20

MR SKINNER: I do apologise, sir, just very, very quickly. I've been given leave to appear, I've not filed any formal application. Is my oral application okay, or do I actually need to file a formal, written application?

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COMMISSIONER: I'm actually very glad you've risen, Mr Skinner. You should file a formal written application.

30

MR SKINNER: Very good, sir.

COMMISSIONER: There's no urgency in that, of course, in the circumstances, but I should be consistent in how I treat everyone.

35

MR SKINNER: Very good.

COMMISSIONER: As I intend to be.

MR SKINNER: I appreciate that, sir.

40

COMMISSIONER: While you're on your feet though, I just want to check with you that you are aware that on the Inquiry's website there is transcript of each day's proceeding in the public hearings.

45

MR SKINNER: I am aware of that, sir. I don't believe that today's is up.

COMMISSIONER: No, it won't be yet. It has to be verified first but it will be up as soon as possible and of course you'll have access to that.

MR SKINNER: Thank you very much, sir.

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COMMISSIONER: Thank you. I will now adjourn the Inquiry to a public hearing at 10 am tomorrow.

WITNESS WITHDREW

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**AT 4.27 PM THE MATTER WAS ADJOURNED
UNTIL TUESDAY, 29 AUGUST 2019**

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