

Search and retrieval – Department of Justice and Equality

On 22 November, a communication issued from the Office of the Secretary General to 11 officials in the Department of Justice and Equality requesting them to engage in a trawl of their electronic and hard copy files. One further official was identified on 24 November. A range of officials from Secretary General to Higher Executive Officer level were encompassed by this request, which was targeted at a number of key officials in the Department either currently in or formally assigned to Policing Division, the Office of the Minister or Secretary and Deputy Secretary General.

The purpose of the ongoing trawl is in order to establish if there is any additional information of relevance available and in the possession of the Department that has not yet been passed to the Charleton Tribunal. Officials were asked to engage in this search as a matter of urgency and to focus their attention to any records that might be in their possession in connection with the legal strategy taken by the Commissioner at the O'Higgins Commission of Investigation. A wide ranging search was completed by close of business on Friday 24 November 2017; however, a number of returns to the office are still awaited.

This search involved the manual review of thousands of emails across many email accounts from the date in which the Government announced the establishment of the O'Higgins Commission of Investigation on 19 December 2014 to when the Report of the Commission of Investigation was published on 11 May 2016.

Officials were informed that if they were unsure as to whether a record fell under the scope of the request, that it be included in the return to the Office of the Secretary General. A report on search and retrieval process is currently being drafted for submission to the Secretary General and Minister for Justice and Equality.

The only other relevant record that has been found to date – and which will be disclosed to the Tribunal relates to a press query received by An Garda Síochána in July 2015 relating to the Commissioner's approach at the Commission, which was forwarded to the Department for information. The then Minister was advised of the press query and informed that the approach taken by the Commissioner at the Commission was solely a matter for the Commissioner, in the context of the legal advice she was receiving, and that any disclosure of evidence heard in private by the Commission would be unlawful.

I have requested that this exercise be completed without delay and no later than Monday morning. I believe that at this point in time, it is highly unlikely that any further information of relevance will in fact be identified, however, I cannot rule out the possibility that a record may emerge at a later date. I have asked officials to ensure that in the unlikely event that any relevant records should emerge, that I be notified at the earliest opportunity and that they be delivered to Justice Charleton without delay.

Noel Waters

24 November 2017