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Dublin 18

Strictly Confidential

Mr Ted McEnery
Committee Clerk
Committee of Public Accounts
Leinster House
Dublin 2

Date: 9th April 2014

Dear Sir

I refer to your letter of the 13th of March 2014 inviting me to attend before your Committee as the former CEO of the Rehab Group. The invitation is concerned with issues which the Committee wishes to enquire into regarding:

1. Payments made by the HSE to Rehab under Section 39 of the Health Act 2004;
2. The operation of the Charitable Lotteries Scheme and payments made to Rehab from the vote of the Department of Justice and Equality;
3. The payments made by SOLAS to Rehab for the provision of Specialist Vocational Training,
4. Payments made by other Government Departments to companies of the Rehab Group.

I wish to advise that I have not been CEO of the Rehab Group since November 2006 and therefore would be unable to assist the Committee with its enquiries in relation to the detailed operational matters that would arise from the above. In the intervening period, of more than seven years, there have been numerous changes in the administration of public expenditure. Since my time as CEO of the Rehab Group the HSE has taken over as the funding agency in Health, Solas has replaced FAS and the Department of Justice took over the Charity Lotteries Fund in 2011 from the Department of Public Expenditure and Reform. The proper people to discuss these matters with are the management of the Rehab Group who are in a position to produce the records and explain the way in which the Rehab Company presently operates.

In any case, I understood that these agenda items were examined exhaustively in the presence of the relevant accounting officers of the HSE, Solas and the Department of Justice. I note that the PAC does not seem to have invited the relevant accounting officers to this weeks meeting

I am therefore concerned that the agenda as outlined is merely a smokescreen to hide the true intention of some members of the PAC as it does not accurately reflect the many

comments of some members of the PAC in the media since my last letter to you. These comments have mainly focussed on my personal financial affairs including my pension which are not within the remit of the PAC and are clearly outside the agenda as outlined.

I am extremely concerned about my rights as a private citizen under Article 40.3 of the Constitution and as outlined in the Supreme Court on the Abbeylara Enquiry.

I also note from your letter under reply that you are not concerned with the period that I was a board director.

It is important to point out that, contrary to the impression created by the Committee around its earlier sittings, this is the first and only letter of invitation sent directly to me by this Committee.

In my last letter I outlined that I wished to assist the PAC and asked that I be communicated with directly and the agenda and points you wish to have clarified outlined. I also suggested that following the additional information supplied by the Rehab Group you might outline any specific information required of me. I have not received any specific requests and your invitation wording mirrors exactly the original letter of invitation to the Rehab Group. This is entirely inadequate and misleading.

It seems equally clear from the conscious and deliberate way in which the Committee has dealt with Rehab and surrounding issues that it has had little regard for the persons involved or their reputations.

In particular, the Committee apparently received a letter from a Mr. John Kelly which may or may not contain allegations of criminality against named persons and possibly others (including myself). Apparently the Committee decided, on legal advice, in private session, to send the letter to An Garda Síochána for investigation by them, pursuant to the Criminal Justice Act of 2011. Incredibly the Committee did not send a copy of the letter to the persons named or identified in the letter (even when requested to do so) to enable those persons to respond in whatever way they deemed appropriate to any allegations that may have been made therein.

It is clear from the Committee's report of its 13 March proceedings that it formed the view in private session that the allegations in the letter were outside its remit. I would assume they also concluded that it was potentially (and likely) defamatory. I would therefore expect they would not have referred to it in public session.

Instead, on the 13th March 2014, the Chairman of the Committee, John McGuinness, made a highly prejudicial statement relating to the letter. That statement appears to have been intended to refer, inter alia, to myself as someone who formerly had an association with Rehab in relation to what he stated potentially involved criminal wrongdoing. This led the Committee to refer the letter to An Garda Síochána. This was clearly intended as a very serious slur on myself and was intended to draw public attention to and lend credence to the letter. This was in relation to a matter where it appears that the Committee's legal advice was that the letter did not come within the remit of the Committee and may not have been covered by privilege and was therefore subject to the laws of defamation. At the same time, the Committee appeared to have allowed a member or someone in the room to copy the letter and disseminate it to the media. This may in my view be part of a witch hunt being

carried out by some members of the Committee against named individuals of Rehab (including myself).

I believe these actions to be indicative that the Committee is, prima facie, prepared to abuse its powers, process and position for the personal and political advantage of some of its members and has, in my view, been prepared to engage in an abuse of natural and constitutional justice.

It does appear that the way in which the Committee is conducting its enquiries and particularly its interest in me in the absence of the information requested raises the immediate issue of fundamental rights under article 40.3 of the Constitution. The Committee will be aware of the issues concerning the rights of the individual and a private citizen before a Committee of the house. It was discussed in the Supreme Court decision Maguire –v- Ardagh 2002 IR which involved the Abbeylara Enquiry and indeed has been referred to in many subsequent cases. It was also reviewed extensively by the Joint Committee of the Constitution Enquiry into article 15 of the Constitution which resulted in certain recommendations being made. It seems to me that we are squarely back in the terrain of Maguire v Ardagh and that my concerns raised in this letter must be considered in light of those constitutional issues.

I have, through my solicitors, requested the Gardaí:

- a) To furnish a copy of the Kelly letter to them
- b) To investigate the photocopying of the Kelly letter and the release of the photocopy of the letter to the media to ascertain if a crime has been committed
- c) To confirm that there is no investigation being carried out by the Gardaí involving me.

I now invite the Committee:

- a) To furnish a copy of the Kelly letter to my solicitor, Robert Dore of Dore and Company Solicitors, 2 Citygate, Bridge Street, Dublin 8, fax 016790581 – email info@dore.ie
- b) To furnish a copy of the transcript of the private meeting of the Committee which discussed the Kelly letter together with its legal advice at such Committee meeting to my solicitor
- c) To identify the person or persons who were permitted to use their iPhone's or other such devices to take copies of the Kelly letter.

As stated above, at the present time, I see no issues with which I am presently concerned that would necessitate my appearance before the Committee. As a private citizen I will not be discussing any matters of private business with the Committee, either collectively or individually. If, however, the Committee takes the view that there are matters on which they believe I may be able to be of assistance, then I would invite it to notify me of any such specific matters so I could ascertain what further assistance I could give you. I should say however that I am not prepared as a private citizen to discuss issues concerning private business or personal information relating to my pension or other businesses save to assure the Committee that it has no connection whatever with the four types of payments set out in your letter.

Therefore, in the circumstances detailed above, I would see difficulty in appearing before the Committee pending these matters being dealt with thoroughly and to my satisfaction and in the interests of natural justice.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Frank Flannery', with a horizontal line underneath.

Frank Flannery