

THE HISTORICAL INSTITUTIONAL ABUSE INQUIRY

SECOND WITNESS STATEMENT OF JONATHAN DUKE-EVANS

Introduction

My name is Jonathan Duke-Evans and I hold the post of Head of Public Inquiries, Claims, and Judicial Reviews in the Ministry of Defence. This is the second witness statement I make for the HIAI. I believe all statements made in this deposition to be true.

2. I have been asked by the HIAI to make this statement to set out the MOD's views as to the authenticity of a paper, prepared by Colin Wallace, which is purportedly dated 8 November 1974. I referred to this matter in my first witness statement (see paragraph 5) and now offer further details in response to the Inquiry's request.

3. The MOD accepts that the authenticity of the 8 November 1974 statement is potentially of considerable significance: given that if it were proven to be both authentic and available to the MOD in or about 1974, it would indicate that there was widespread knowledge in the MOD of unlawful sexual activity in the Kincora Boys' Hostel at that time. For the avoidance of any doubt, the MOD does not accept either that this document was created at the time alleged by Mr Wallace, or that it was made available to the MOD at any time prior to its production by Mr Frederick John Holroyd, a former Army Captain, in or about November 1984 to Essex police. I understand that Mr Holroyd advised Essex police that the document had been written by Mr Wallace and sent to an MI5 officer at the Army Headquarters in Northern Ireland (HQNI).

4. The putative 8 November 1974 document (hereinafter referred to 'the GC80 document' as described in the Caskey Reports) has been closely considered in a number of investigations, and in each case considerable doubt was cast on its authenticity.

The Caskey Reports

5. As part of his 'Caskey III' report, dated 21 March 1983 (KIN 30001 - 300067), Detective Superintendent Caskey interviewed a number of officers in relation to the claims made by Colin Wallace. In August 1985 Mr Caskey addressed the issues raised by additional allegations in relation to Kincora Boys' Hostel made by Mr Holroyd and Mr Wallace in the 'Caskey IV' report (KIN 35001- 350041). In that latter report, the authenticity of the GC80 document was considered in detail.
6. Detective Superintendent Caskey's doubts as to the authenticity of the GC80 document were numerous and significant. Firstly, forensic examination did not bear out its authenticity. Secondly, Mr Caskey noted that those individuals who would have been expected to have known of the GC80 document knew nothing of its existence. Thirdly, he noted that there are issues in respect of the format of the GC80 document. Fourthly, and possibly most significantly, the GC80 document purported to rely on documents and information which were not available to either the MOD or the police at the time of its supposed creation in November 1974.
7. At the time of his investigation in 1985 Detective Superintendent Caskey found that it was impossible to trace any of the documents from which the contents of the GC80 document were purportedly derived. In particular, although the document stated that it relied on a number of RUC papers to which it was alleged Mr Wallace had access at that time, no evidence could be found to corroborate that those documents ever existed, much less that Wallace had access to them.
8. Further, Mr Wallace also alleged that he created the GC80 document in response to a direct request from the Commander Land Forces and/or the Colonel GS (Int/Sy) at that time, who were General Sir Peter Leng and Colonel 'M' respectively. Those familiar with working procedures at HQNI considered it highly unlikely that Mr Wallace would have been tasked to report directly to those individuals.

9. Another reason why the GC80 document would appear to be inauthentic is the fact that reference is made to a report by a social worker, Mr H Mason. However, Mr Mason's investigation had not been forwarded by the welfare authorities to the police before 15 March 1976, and there was no evidence that Mr Mason's report had been provided to the Army prior to 8 November 1974.

10. Furthermore, Detective Superintendent Caskey noted that when Wallace met with the journalist David Blundy of the Sunday Times in Sussex in 1977 they did not discuss Kincora or indeed homosexual activity (see KIN 30010). In a similar vein, another journalist, David McKittrick of the Irish Times, stated that although he interviewed Mr Wallace extensively in 1979 in relation to intelligence matters, Kincora and Tara were never mentioned.

11. Wallace's superior, Chief Information Officer Peter Broderick, stated that under no circumstances would documents of this type ever be issued from HQNI (see paragraph 120 of Caskey, KIN30030). If the GC80 document were authentic, proving that Mr Wallace had raised these matters with senior military figures some time earlier, one might have expected him to have mentioned document GC80 at some stage during his disciplinary proceedings. Failing this, one would certainly have expected Mr Wallace to have mentioned GC80 when he was briefing journalists in the years that followed his resignation.

12. During his investigations Detective Superintendent Caskey had access to classified documents, and was therefore able to reach his conclusions based on full consideration of documents that he considered relevant (see page KIN 30058).

13. Detective Superintendent Caskey concludes that it is clear that the only document on these matters attributable to Mr Wallace during his employment with the MOD is that which he gave to the journalist David McKittrick in 1975. This document makes mention of William McGrath being a homosexual and of his being the CO of Tara, but there is no reference to Kincora or other boys' homes. The journalists David Blundy and David McKittrick both state that Kincora was not mentioned to them by Mr Wallace, or indeed anyone else, prior to 1980.

14. Furthermore, Detective Superintendent Caskey noted that Mr Wallace was given every possible reassurance to allay any fears he may reasonably have had in relation to prosecution under the Official Secrets Act. He noted that there was no evidence from any of the former residents in Kincora in relation to allegations against British civil servants, Members of Parliament, lawyers or Justices of the Peace. Mr Caskey was able to conclude that there was no evidence that either intelligence agency willfully withheld evidence of criminal acts involving McGrath and the boys in his care. There was no evidence of a cover up. The finding that there was no genuine impediment to prevent Mr Wallace from authenticating the document, had it indeed been authentic, strengthens the view that it was not.

15. Additionally, Mr Caskey noted that the Northern Ireland Forensic Science Laboratory for scientific investigations subjected the GC80 document to forensic examination. A forensic scientist, Mr Budd, prepared a report dated 14 February 1985, in which he concluded that there were features of the document, which would indicate that it had been tampered with. These included the fact that the shape of the '9' in the GC80 document was more akin to that in a document produced by Mr Wallace in 1984 than in another produced by him in 1976.

16. Other considerations adduced by Mr Caskey which undermine the argument for the GC80 document being authentic include the fact that Lt Colonel Railton (to whom the report was purportedly directed) asserted that the document 'did not ring true'. Lt Colonel Railton indicated that a document of this kind would not have been addressed to him in manuscript, and he had no recollection of ever having seen it before. He also pointed out that the referenced RUC documents, had they existed, would not have been available to Mr Wallace.

17. General Sir Peter Leng, Commander of Land Forces, confirmed to Detective Superintendent Caskey that he too had not seen the GC80 document, and would not have received it in its draft format. Neither had Major General Henry Garrett, Colonel M or Colonel M's predecessor in post ever seen it. The latter further confirmed that Mr Wallace would not have been permitted access to the RUC intelligence papers referenced in the document, as all of those intelligence papers would have come

through him, and would not have been provided to the Army Information Services Department where Mr Wallace was employed.

18. Mr Caskey concluded in fact that none of Mr Wallace's' superiors or colleagues had ever seen the GC80 document – in particular those who worked most closely with him, namely Chief Information Officers David McDine, and Peter Broderick. Mr McDine highlighted a number of reasons why this document could not be regarded as authentic. These included: that, for a number of reasons including pressure of work, a document of this detail would not have been prepared in 1974; that Mr Wallace did not produce reports of such detail or nature; that a report to senior authority would not be sent in draft form; and any such report would have passed his office for assessment and presentation.

19. Mr Roy Pace, the Chief Clerk of the Public Relations Branch at HQNI, indicated that the document, if authentic, would have been stamped and given a serial number, (even if it were a merely a draft document) and he noted that there were no such markings on the GC80 document.

20. Detective Superintendent McClure confirmed that Special Branch had no evidence of the RUC documents referred to in the GC80 document ever having existed. Neither was there any record of those documents ever having been received, retained or destroyed in Military Intelligence HQNI.

21. Other features of the GC80 document cast doubt on its authenticity. For example, Mr Ronald Orr, a social worker, is referenced in the GC80 document, yet Mr Orr confirmed that he had never contacted either the police or military prior to being interviewed in 1980, and it is therefore hard to see how Mr Wallace could have referred to his concerns in a document written in 1974.

22. Finally it was noted by Superintendent Caskey that the version of the GC80 document published by the Irish Times on 25 June 1985 was different again from the document presented by Mr Holroyd to Essex police.

23. All of these considerations support the conclusion that the GC80 document was not prepared by Wallace in 1974 and was not made available to the MOD prior to 1984.

Rucker Report

24. The Rucker Report on Mr Wallace's allegations which was prepared for the Permanent Secretary of the MOD in 1989 also addressed the authenticity of the GC80 document, and reached the conclusion that the document was not authentic. Relevant parts include paragraph 302, where it was noted that Mr Wallace wrote to Major General Garrett on 14 August 1985, stating clearly that the Army was not party to any alleged cover up of homosexual assaults that took place in Kincora.

25. Additionally paragraph 224 of the Report concluded that there was 'no good reason' why Mr Wallace should not have given the GC80 document (had it been genuine) to the RUC at the time of Detective Superintendent Caskey's investigation.

26. At para 292 of the Report it was noted that there were discrepancies between the documents Mr Wallace provided to the journalist Paul Foot and those provided to the authorities.

27. At chapter X of the Rucker Report, para 338 (u) (b), the frailties of the evidence produced are listed. In those extracts it is made clear that the documents which were referred to in the GC80 document were not actually available to Mr Wallace at the time when it purported to have been written. At para 347(c) of the Report, it is made clear that the RUC subjected the document to forensic examination, which indicated (as recorded at para 4.85 of the Hughes Report) that it could not be validated as authentic. It was noted that there was no adequate explanation why Wallace had retained the document, in breach of the Official Secrets Act, yet did not mention its existence to Senior Officers when he was supposedly forced to resign because of the efforts he was making to expose it.

Superintendent George Clarke's Statement

28. The MoD concurs with the analysis of the GC80 document in Detective Chief Superintendent George Clarke's detailed statement for the HIA Inquiry (KIN1527). Given the importance of this document to the work of the HIAI, Detective Chief Superintendent Clarke prepared a strategic overview of it (see para 117, p. KIN 1561), which he exhibited at GC11, (KIN 1728).

29. At paragraph 119 (KIN 1562) Detective Chief Superintendent Clarke recounts how the police came into possession of the document, and how it had been tampered with prior to production by Mr Holroyd to Essex Police: the copy provided was a photocopy, which had been produced in an unusual manner, and the original of the document has never been located. At paragraph 126 of the statement, it is noted that of all the documents, the only one that makes reference to William McGrath and the sexual abuse of residents in Kincora is the document GC80: if the document were genuine it would be surprising that the allegations are not referred to in any other document dating from that time.

30. The conclusions reached by Detective Chief Superintendent Clarke mirror those of the earlier examinations by Detective Superintendent Caskey. In his executive summary (KIN 1730-1731) Mr Clarke highlights that the authenticity of GC80 is called in question, given issues in relation to its style, contents and accuracy, as well as the virtually unanimous view of those MOD personnel in a position to judge it that the document had not been produced in 1974. Detective Chief Superintendent Clarke also emphasises that details contained within GC80 were unlikely to have been known by Mr Wallace in 1974, citing by way of example the fact that GC80 refers to allegations about Raymond Semple, whereas no complaints had been made about Semple prior to 1980.

31. It is also in the MoD's view highly significant that although Mr Wallace briefed journalists in 1973 about TARA, Mr McGrath and his homosexuality none of the journalists concerned recollect Kincora or Mr McGrath's employment at a boys' home having ever been mentioned at these briefings. This is plainly inconsistent with Mr Wallace's claims that in 1973 his deep concern about the ongoing abuse in Kincora resulted in his removal from his position. It is also significant that Mr Wallace himself has steadfastly refused to authenticate the document GC80.

32. Detective Chief Superintendent Clarke also reached a similar conclusion to the Caskey investigation in finding that the reference in the GC80 document to the Mason investigation is inconsistent with the document's authenticity (see paragraph 9 above).

33. Equally, Mr Wallace's statement in GC80 that there was evidence of abuse in Kincora as early as 1959 tells against its authenticity, as this was not known until the public trial of Mains in 1981.

34. Without summarising the entirety of Detective Chief Superintendent Clarke's analysis, it does make clear that the document GC80 is riddled with inaccuracies, which tend to reinforce the argument that it is not genuine. These include the allegation that the RUC held reports from Roy Garland about William McGrath, Tara, and Kincora from 1971; in fact it did not receive information from Garland about these matters until 1973/74. Other relevant points include **Major I**'s statement that, whilst Mr Wallace may have received intelligence briefings, he was unlikely to have been given access to intelligence documents.

Conclusion

35. In conclusion, for all the reasons given above, the MOD does not accept that the GC80 document was produced at the time of its purported date of 8 November 1974, and that it does not therefore constitute evidence that the MOD was aware of the information it contains – to the extent that it is accurate – at that time.

I believe that the facts stated in this witness statement are true.

SIGNED.....

John D. Evers

DATED.....

1 July 2016

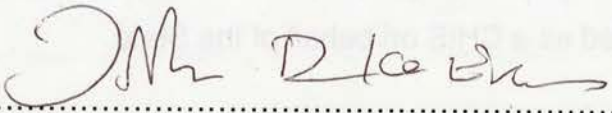
THE HISTORICAL INSTITUTIONAL ABUSE INQUIRY

THIRD WITNESS STATEMENT OF JONATHAN DUKE-EVANS

1. The MOD is aware that allegations have been made to the effect that William McGrath was a Covert Human Intelligence Source (CHIS) for the Army. The MOD's position in respect of this is consonant with the government wide principle of NCND (namely to neither confirm nor deny such allegations). I can therefore neither confirm nor deny that any individual acted as a CHIS on behalf of the State.
2. Nonetheless, the MOD would like in this connection to draw the attention of the Historical Institutional Abuse Inquiry to certain considerations which may be considered relevant.
3. Firstly, the MOD carried out what was described as a research project into the Loyalist organisation known as TARA, which included attempts to gather information on Mr McGrath. This confirms that the Department held limited information on and had limited knowledge of him and of TARA more widely at that point.
4. Secondly, in light of the allegations which have been made about the MOD's relationship with Mr McGrath, I can confirm that I have been unable to locate any relevant documents, other than those which have been provided to the HIAI for its consideration. In this context it is apposite to note that the MOD have, and had at the relevant time, very robust policies on the creation and retention of records in respect of those individuals who assisted the security forces as a CHIS. These records have been searched and any relevant material has been disclosed to the HIAI.
5. Thirdly, although the MOD cannot now locate the background file that was held on Mr McGrath (indeed it was noted as being missing by the time of Mr Rucker preparing his report in 1989), it is clear that this file was available at an earlier stage to a number of individuals. None of the subsequent actions or contemporaneously made records of those who saw that background file indicated that anything contained therein suggested any relationship of the kind alleged between Mr McGrath and the MOD.

6. To conclude, I confirm that I have been unable to find any evidence in MOD records that the MOD used any relationship with Mr McGrath in order to elicit any information from him.

I believe that the facts stated in this witness statement are true.

SIGNED.....

DATED.....1 July 2016