

**Report by a tribunal constituted under section 21 of the Courts Reform (Scotland) Act 2014 to report into the fitness for office of a judicial office holder.**

**1 Introduction**

1.1 This tribunal is constituted under section 21 of the Courts Reform (Scotland) Act 2014 and is governed by the Fitness for Judicial Office Tribunal Rules 2015. Its task is to investigate whether a judicial office holder (JOH) is unfit for office because of misbehaviour and submit a report to the First Minister. Following an investigation carried out by Lord Burns, the tribunal required to consider allegations made by three persons, B, C and D. These were framed by the investigating officer into five grounds, namely:

- 1 On [REDACTED] 1999 at the [REDACTED] he did put his hand inside the clothing of B and touch her naked breast;
- 2 (i) in late 2001 or early 2002 at [REDACTED] Court he did kiss C, [REDACTED] [REDACTED] on the lips, and (ii) in [REDACTED] or [REDACTED] 2004 at [REDACTED] [REDACTED] Court he did squeeze the buttocks of C, [REDACTED];
- 3 On [REDACTED] 2018 in the [REDACTED] Court [REDACTED], [REDACTED], [REDACTED], he did touch D, [REDACTED] at [REDACTED], on the cheek;
- 4 On [REDACTED] 2018 at [REDACTED] Court he did:
  - (a) when he was alone in his chambers with D (i) make an inappropriate remark by saying to her “--- much as I would love to chat to your pretty face all day, I’m sure you have better things to do” and (ii) hug her inappropriately causing his face to linger on her shoulder; and
  - (b) in a corridor area pat her twice on the bottom over her clothing;
- 5 On [REDACTED] 2018 on a train travelling between [REDACTED] and [REDACTED] he did touch D on the leg.

1.2 The tribunal is aware that it was constituted after a judge of the Court of Session quashed the decision of a previous tribunal which considered only matters spoken to by D. However it has approached its task wholly of new and without reference to any of that history or previous evidence and decisions. It has reached its conclusions only on the basis of the evidence put before it and the submissions made by the presenting officer and counsel for JOH.

1.3 The tribunal decided that an evidential hearing was required. This took place over five days in January 2024. The presenting officer led evidence from B, C and D. Counsel for JOH led evidence from JOH and three others (two of whom by WebEx). Each witness took the oath or affirmed, and, if so advised, were subject to cross examination. The presenting officer and counsel for JOH agreed that the tribunal could also have regard to the contents of a joint











































