

**From:** David Oliver; [REDACTED] GRO  
**To:** "Parsons, Andrew"; [REDACTED] GRO Chris Aujard  
[REDACTED] GRO Rodric Williams  
[REDACTED] GRO Belinda Crowe [REDACTED] GRO  
Angela Van-Den-Bogerd [REDACTED] GRO  
**Cc:** "Matthews, Gavin"; [REDACTED] GRO "Parmenter, Claire"  
[REDACTED] GRO

**Subject:** RE: SS Challenges for WG meeting - legally privileged

**Date:** Tue, 29 Apr 2014 15:01:18 +0000

**Importance:** Normal

**Inline-Images:** image001.jpg; image002.jpg; image003.jpg

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Andy,

Thanks for this – do you have more detail on any examples/more examples – think we will need to be able to evidence some of this quite exhaustively.

Thanks

david

**David Oliver**  
**Programme Manager**  
**Initial Complaint and Mediation Scheme**

[REDACTED] GRO  
**Mobile:** [REDACTED] GRO

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**From:** Parsons, Andrew [REDACTED] GRO  
**Sent:** 28 April 2014 12:51  
**To:** Chris Aujard; Rodric Williams; Belinda Crowe; David Oliver; Angela Van-Den-Bogerd  
**Cc:** Matthews, Gavin; Parmenter, Claire  
**Subject:** SS Challenges for WG meeting - legally privileged

All

I've set out below a list of challenges that have arisen over the last few weeks with SS so that we can consider whether to raise any of these with SS at the upcoming WG meeting. These are in a rough order of importance as I see it. 1 and 2 could perhaps be raised with Tony before this week's WG meeting. I also think that 3 and 4 are important issues that could be raised if we have the capital to push these points. The other points will be partly mitigated if we can solve the first 4.

1. WG Confidentiality
  - a. Concern: it appears that SS (and AB) are communicating WG discussions to Applicants / Third Parties.
  - b. Example: In the letters from Aver and Howe – they both reference that POL was receiving repeated extensions – this could only have come from inside the WG.
  - c. Objective: Reiterate the need for WG discussions to be confidential.
2. Objective of investigation process:
  - a. Is the objective to "build a foundation for resolution at mediation" or "find the truth".
  - b. The former is quicker and more practical.
  - c. The latter requires SS to become a decision maker – much more onerous in terms of resourcing / time / etc.
  - d. Also the latter is impossible – SS has no power to test credibility of evidence (ie. no cross examination of witness testimony; no criminal sanctions for lying; etc.) and therefore will never find the truth.
  - e. Objective: Agreement to limit investigations to practical conclusions that help mediation process

3. Scope creep
  - a. SS are not looking at safety of convictions and the fairness of the contractual structure between POL and SPMRs.
  - b. Example: this issue has been raised in drafts of both the thematic report and individual reports.
  - c. Both items are outside SS' expertise and so they should not be commenting.
  - d. These are also not "Horizon related" and are therefore arguably outside the scheme.
  - e. Objective: Direction from the Chair to narrow scope of investigation.
4. SS investigation process
  - a. Should this be based only on the information provided by POL and in the CQR, or
  - b. Should SS be free to ask questions of applicants?
  - c. If option "B", what impact will this have on the timetable.
  - d. Objective: push for option "A"
5. SS communication with PAs / Applicants
  - a. No transparency of SS' interactions with PAs or Applicants
  - b. Impacts on managing workflow if mixed messages are being relayed.
  - c. Objective: greater transparency of communications from SS.
6. SS "hardening of CQRs"
  - a. What does this entail?
  - b. Are SS maintaining impartiality or are they now helping Applicant's to construct cases?
  - c. How is this impacting on the timings of the process?
  - d. Could the questioning process at 3(b) be integrated here?
  - e. Objective: Get greater clarity on what SS are doing to warrant this work.
7. Lack of SS interaction with POL.
  - a. SS are not directing any questions to POL.
  - b. If not getting info from POL then there is a one-sided flow of info from applicants.
  - c. Example: no engagement on factfile despite offers of meetings.
  - d. Objective: Encourage SS to pro-actively consult POL on issues rather than raising matters in front of the WG.

Kind regards  
Andy

**Andrew Parsons**

Senior Associate

for and on behalf of Bond Dickinson LLP

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