
From: Belinda Crowe[IMCEAEX-
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_CN=RECIPIENTS_CN=BELINDA+20CROWE79B93F11-569F-4526-A078-
F5B4958A8917220[GRO]]

Sent: Sat 22/02/2014 8:16:31 PM (UTC)

To: Paula Vennells[GRO]]

Cc: Chris Aujard[GRO]]]; Chris M Day[GRO]
Angela Van-Den-Bogerd[GRO]]]; Mark R
Davies[GRO]]]; Martin Edwards[GRO]]]

Subject: Re: Board papers - questions

Hi Paula

Hope your flight home was good.

Answers to most of your questions below. I have left some for Mark and Chris, and I have not dealt with the detail of the settlement policy as that is very detailed and there are many strands to it. I will let you have a separate note.

Best wishes
Belinda

ICR/Mediation paper (Belinda & Chris A & Mark)

- serious query: is there anything going well? Not at all looking for it if not, but (rightly) this paper sets out many risks (very well thank you). It would be good to voiceover any positives. (Don't find them if not there.)

Few positives in terms of numbers of cases, slipping timelines, increased costs and impact on the business. Stakeholders and their agendas are problematic. Too early to say whether there will be positives in terms of outcomes but see answers below which help to explain.

- 3.1 legal assurance process more complicated (therefore adding time), why?
Because of the need to have every case checked by lawyers, including Cartwright King to ensure there are no disclosure issues and other ramifications.

Have we resolved the Fujitsu issue?

We have, by and large, through careful planning by Angela's team as there are capacity limits on the amount of data that can be retrieved but Fujitsu has appointed a project manager to work with us on this and Angela's team speak regularly with IT colleagues to resolve issues/delays.

Who are the new investigators referred to (internal)? And are they ok?
Investigators are good and fully operational.

- 3.2 how do we/will we know our report quality is ok?
A thorough QA process including lawyers and CA sign off.

- 3.3 draft report stage for who? PO or SS?
This is a stage whereby the PO and SS reports are passed to the parties for comment before the WG make a final decision on whether the case is appropriate for mediation.

- Settlement claims policy - did CA/CD sign this off (is it draft or confirmed) and are CD/CA comfortable to talk to it if we have questions? I remember the steering group looked at a BDickenson proposal - could you remind me of the content and the principles behind how we decided on the different levels?

The policy was amended to take account of the comments of the Steering Group. It has been to ExCo and amended and has again gone round for further comments before final sign off. I will have to send a separate note on the detail. Its a long document. CA will be able to answer questions on it at the Board.

Has it been shared with the working group or advisers?

No, it is designed for internal use as a basis for us to determine a negotiating mandate for the PO team going into the mediation meeting.

- 3.5 advisers negotiating: what did we make clear in the details of the mediation scheme? Eg., no consequential losses, no right of compensation, etc, etc? Ie., what could we go back and remind advisers/Spmrs of, in order to stop scope creep and manage the expectation gap?

There were no restrictions set out in the details of the mediation scheme when it was introduced.

It seems to me we need to be very clear that if there are expectations that cannot be handled within the boundaries of mediation, then the Spmr needs to consider other action. If however, we said that, could it lead to class action? I am sure the Board will want to understand more on this. I do.

The approach is to take each case individually. In some cases we have taken cases out of the process to try to resolve them (and Angela has succeeded in four cases already). We are looking at other cases where we might resolve early. However, more generally the expectations will start to be set on a case by case basis when the PO and SS reports are available. How successful that is will depend to a large extent on the content of the SS report. Tony has consistently taken the view that we need to take a case by case approach. 49 of the cases are ones which we have prosecuted and it could be that many of those are ones where we would not mediate but provide the reports to the applicants and allow them to appeal their convictions through the courts should they chose.

- 3.6 potential cost £10m+ serious.

As the note says, the expectations gap assessment is not merits based. Indications from the investigations undertaken so far are that a number do not have merit. You may recall that the Board asked for the expectations gap to be tracked and we are doing that but the figure will continue to change as we get more data. I would expect the £6M settlement assessment to reduce when PO and SS have investigated but it is too early to say at this stage as we have not enough data. We are considering doing a merits based exercise as we progress the cases but every activity we do has a cost and our thinking at present is that the time to do that is when we know whether a case is likely to be mediated and when we set the negotiating mandate.

On the costs of running the scheme, these are high. We have taken admin from SS, but we are trying to manually manage a caseload of c140 cases. At its most basic that means 140 individual funding agreements, purchase orders, invoices, different letters to be prepared and sent at different stages of the process. We are also servicing a Working Group which meets weekly to discuss cases and providing the updates on each case and then undertaking the actions agreed by the group is resource heavy. We have brought in resource for that as we have not been able to get the resource in house. Bond Dickinson and Cartwright King do the legal checks and QA of the reports. We have 22 investigators and have the cost of backfilling against those. We are streamlining where we can and are getting slicker at it but cost per case right through to mediation is high and we are looking at whether and how we might settle some cases early to try to reduce some of those costs.

When we went into this, the motivation (Alice and me) was to find out what was really going on to create so much noise and to put in place processes that we felt were closer to the way we wanted PO to be run (more supportive) going forwards. The system that was in place at the time was when we were a division of RM and accountable to their Legal and Security Directors. Sparrow was our opportunity to reset the dial for PO as a stand alone business. We did not intend it to result in major compensation for policies that were followed and applied to thousands of others who did not have problems, and which were operating in a different corporate

context. We seem to have lost this focus and I am looking for advice on how we regain it. It should be part of the SS/TH pre-meet in Monday. And will be a question from the Board. (Chris, Mark, Belinda).

This is, as you say, very much at the heart of our discussions on Monday, both at the pre-meet and your later discussions with SS and Tony. The PO investigation team are looking at whether the action taken on particular cases was consistent with policies in existence at the time and that will feed into the merits based assessment referred to above. That means that the expectations gap will continue to be large as JFSA and SS are not necessarily in that place. Monday's meetings and the meeting with MPs provides an excellent opportunity to articulate this.

- 3.7 what is the wider scope the working group want to go for?

Tony has not said specifically but the reason for the meeting with him on Monday is to explore that. It may be as straightforward as producing a report at the end of the Scheme but the potential implications of that is that it comments on the merits of policies which were in place prior to separation which is relevant to your point about focus. SS and JFSA have commented on matters such as contracts, for example. But the key issue here, and the purpose of the meetings on Monday is to make sure we are able to regain control of the scope of SS and the WG.

- 3.9/10 what did we agree for advisers on fees? Can we go back and reconfirm this and the nature of mediation? Have they all signed up for scope and fees? What is the point re TH and engaging him re advisers?

As set out above, we did not set out scope. We did set out what mediation was and we will do so again in a lot more detail when the WG decides whether a case is suitable for mediation. But that does not limit scope. At that stage PO will have an opportunity to begin to manage expectations through the mediator. The fees and expenses were clearly set out in the Scheme documentation, agreed by JFSA and SS. The aim of engaging Tony is that as the Chair he can take a firm line with advisors as Chair in terms of reminding them of what they signed up for and reiterating their role. So far he is inclined to do that. We have now had a letter (expected) from one of the advisors, copied to JFSA and SS complaining about timescales, refusal to pay expenses among other things. Even though JFSA and SS agreed the fee arrangements they are sympathetic to the advisors. Tony's support for PO maintaining the fees agreement is crucial in terms of trying to keep a control on costs. Whilst PO can refuse to pay more than the stated amount, that will create handling issues (manageable but unhelpful as attempts to control costs and scope creep are resulting in claims of trying to prevent the truth coming out - as it has trying to negotiate the SS engagement letter).

Prosecution paper (Chris A & Mark)

- 3.3 3rd bullet: why don't we know 31 were subject to some kind of recovery process? Presumably poor record keeping? Do we now have the correct systems in place?

Chris is best place to answer this.

- 3.4 if we are likely to take forwards fewer of the stacked cases - what is the reason and what is the comms line to explain that? Presumably this is genuinely a PO view of lessons learnt and/or closer to the supportive mutual culture we want in place. If we were to explain it like that, does it then lead to a need for further disclosure re past legal cases - presumably not as they were subject to the policy at the time?

Mark will want to answer this.

How quickly can we move on stacked cases? I am uncomfortable keeping people waiting - this will be a big deal for some of them and stressful.

We can start this when we have the policy agreed. We are already preparing the cases we have identified for no further action.

- Comms appendix: is there a 'higher ground' statement ref my point 3.6 above?

Mark will want to answer this

Best wishes
Belinda

Belinda Crowe
148 Old Street, LONDON, EC1V 9HQ

GRO

On 21 Feb 2014, at 17:32, "Paula Vennells" > wrote:

Hi there, thank you for what is clearly a great deal of work!
And as I am using up my holiday to go through all this, please excuse the brevity/lack of grammar etc....

Questions as follows:

BSP paper (Angela)

- how does 3.2 relate to 5.1? Ie., a long list of areas vs 9 workstreams?
- 6.1 £9m potential benefit: I assume as he has checked the papers that Chris D is comfortable with this - it is risky giving the Board a figure before the ExCo has signed off a business case. Pls can I have a breakdown of how we get to £9m. If it is validated, even approximately, is it in the scope of Colin's cost reduction programme? And/or Brian's BTr?

ICR/Mediation paper (Belinda & Chris A & Mark)

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How quickly can we move on stacked cases? I am uncomfortable keeping people waiting - this will be a big deal for some of them and stressful.
- Comms appendix: is there a 'higher ground' statement ref my point 3.6 above?

Thanks again everyone. This feels particularly difficult and I am grateful to you for all the time and effort and support you are putting into this. There was and still is a good reason for us seeing this through, and Angela's paper also points to it.

Paula

Sent from my iPad