POL00006769

Bond Dickinson

Post Office – Horizon

Note of Conference with Brian Altman QC

9 September 2013

In attendance: Brian Altman QC (**BA**)
Susan Crichton (**SC**) - POL
Rodric Williams (**RW**) - POL
Jarnail Singh (**JS**) - POL
Simon Clarke (**SC**) - Cartwright King
Harry Bowyer (**HB**) – Cartwright King
Martin Smith (**MS**) – Cartwright King
Gavin Matthews (**GM**) – Bond Dickinson
Andrew Parsons (**AP**) – Bond Dickinson

BA opened the conference by confirming that he had read through all five of the ring binders delivered by Bond Dickinson (**BD**).

GM stated that the conference had been set up to:

- Allow BA to get a fuller understanding of the review process undertaken by Cartwright King (**CK**).
- Discuss the issues raised in BA's interim review of 2 August 2013 and HB's response to the interim review dated 12 August 2013.
- To address the issue of POL's continuing duty of disclosure.

BA advised that POL have three duties of disclosure depending on the stage that a criminal case has reached as follows:

1 Pending a prosecution.

2 During a prosecution.

3 Following conviction.

In relation to the second category, BA stated that SC was correct that the duty of disclosure arises only upon charging the Defendant (although POL sometimes takes a more lenient view). The duty continues through to hearing/acquittal and is set out under section 3 of the Criminal Procedure and Investigations Act 1996.

In relation to the third category, ie following conviction, POL has a duty to act as ministers of justice and act fairly. BA advised that POL/CK use the same benchmark for this category of case as is set out in section 3 above.

BA advised that CK has used a sensible threshold for carrying out the review of the criminal cases, intentionally setting the bar low. He advised that in relation to the post-conviction phase POL was looking for evidence which might cast doubt on the safety of the previous prosecution.

RW then confirmed that the weekly hub meetings were starting to bed in, picking up any issues across the business which may relate to Horizon. SC said that there had been some "cultural issues" at the start which had now been overcome but he thought that it was necessary to put duties on individuals. Consequently CK are in the process of writing a protocol to explain the purpose of the weekly hub meetings, the roles and responsibilities of individuals. POL were picking up issues which were compiled

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in the matrix and it was observed that there had to be continuity of individual attendance at this meeting and everyone must be on message.

BA suggested that there should be a dedicated email box for Horizon related information to go into, be shared and that a named individual be responsible for it. He also advised that it was a good idea to have the hub meetings stating that individuals needed to be focused and he thought that CK's idea of a protocol was a good one (it was subsequently agreed that BA would review the draft protocol).

BA advised that on balance Fujitsu should be kept outside the weekly hub meetings, ie at arm's length as a third party.

RW confirmed that Fujitsu do not appear to be resistant to responding to POL but they were slow.

SC stated that there was a meeting taking place this week between POL and Fujitsu and that POL is currently re-procuring its IT.

BA said that it was important that POL convinced Fujitsu that there must be one point of contact between Fujitsu and POL and that he thought that the weekly hub meeting was a sensible way of achieving this.

BA said that he had noted that Fujitsu had made mention of migrating their system to Belfast. As a consequence it is vital for POL to obtain an assurance from Fujitsu that they will archive all the data so that POL can defend previous convictions. POL's duty is to pursue all reasonable lines of enquiry and POL should make specific targeted enquiries for information to Fujitsu.

BA advised that POL/CK ensure that the disclosure procedure is beyond reproach. It was widely agreed that there was likely to be a "band wagon" approach in relation to defendants challenging their previous convictions.

There was then a discussion in relation to Gareth Jenkins role as an expert in the criminal cases. MS stated that he thought that there was a lot of Horizon information within Fujitsu that had not been getting to Gareth Jenkins.

BA stated that CK will need to review previous cases when any new "bugs" come to light and that they should use the master schedule of previous cases to search and carry out this review.

SC stated that Gareth Jenkins had only given oral evidence in one case – Seema Misra - though he had prepared expert reports for a dozen or so cases.

SC stated that there was currently no replacement for Gareth Jenkins but the plan was to source a professor from either Imperial or UMIST. There are two senior people that CK are currently looking at who on paper look very strong. CK are looking for an expert who can look at Horizon, know how it was written and check that it does the job. The current intention is that KPMG (or similar) will instruct the professor in future cases.

BA then raised two further issues:

1 The geographical limits of the review.

2 The selection of 1 January 2010 as the earliest date for carrying out reviews.

In relation to geographical limits, there have been prosecutions in Scotland and Ireland. In Scotland prosecutions are carried out the Procurator Fiscal, in Ireland they are carried out by the Public Prosecution Service. MS/ JS & SC were in Scotland last week to discuss the findings of the SS interim report with the Procurator Fiscal. Current cases stand adjourned in Scotland.

In relation to Northern Ireland, SC said that CK needed to make a visit though there had only been two prosecutions and neither of these were Horizon cases.

In relation to the cut-off date, 1 January 2010 was close to the Horizon Online (**HOL**) rollout. Prior to the HOL rollout there was a cash audit done so that all POL branches balanced.

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BA said that he required a full transcript of Day 6 of the Seema Misra case. The copying had only copied every other page. GM said that these would be sent on. SC reported that Wylie (against whom a prosecution had recently been dropped) had indicated an intention to sue.

There was then a discussion in relation to the overlap between the intended mediation process and criminal cases.

AP reported the current position in relation to the mediation process and how it was intended to work. Individuals currently being prosecuted are not eligible though individuals who have previously been convicted are eligible for the scheme.

BA advised considerable caution in relation to mediation cases involving previously convicted individuals (Seema Misra has already indicated an intention to be within the scheme). The concern is that lawyers acting for those individuals may be using the scheme to obtain information which they would not normally be entitled to in order to pursue an appeal.

BA said that it was important that CK were used to review all the information given to these individuals by SS so that CK were not "blindsided" by evidence that they are not aware of. The information being sent out to the individuals must be audited by CK.

BA then raised the issue of the Second Sight report of 8 July 2013 being an "interim report". SC confirmed that SS's reporting role was set to change and the mediation process had been set up to achieve this. SS's involvement was likely to end in December 2013.

BA stated that although the index to his bundle at tab 6 stated that there were 25 full reviews he had only received 24 out of a possible 27. The additional 3 reviewed cases were Brown, Knight and one other. SC confirmed that these would be sent through to BA via BD.

BA also said that he had attempted to cross refer the spot reviews with named individuals and had identified the following:

Spot Review 1 – Armstrong
Spot Review 5 – Rukin
Spot Review 21 – O'Dell
Spot Review 22 – Alison Hall

We need to obtain from SS all the names of the spot review individuals and these need to be sent to CK. On a macro level, BA said that he had said as much as he should and that POL should manage and control the mediation process.

On a micro level he had considered HB's response to the interim review dated 12 August 2013 and went through a number of issues. BA confirmed that when he carried out his interim review on 2 August he did not have the sift protocol. BA advised that in relation to the sift and full review process, individuals should not carry out the sifts or full reviews if they had been responsible for prosecuting the case at trial.

In relation the Helen Rose Report, BA had raised the issue of whether there were two reports. CK confirmed that this had merely been a typographical error which had been repeated and that there was only one Helen Rose Report.

BA advised that in relation to the Hutchings case (one of SC's reviews) that he believed that there should be disclosure in that case. He also advised that CK need to think about the draft letter about disclosure in Ishaq. There was then a discussion about Manku and Allen.