
From: Gavin Lambert[IMCEAEX-
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_CN=RECIPIENTS_CN=GAVIN+20LAMBERT8DF70DE8-15E0-43AA-B8CD-
C9B44CD293AB509 **GRO**]
Sent: Tue 25/11/2014 3:25:30 PM (UTC)
To: Mark R Davies **GRO**
Cc: Tom Wechsler **GRO** Patrick Bourke **GRO**
Subject: RE: lines on the Sparrow position for Alice 1:1 and Board
Attachment: PV-Board-AP v2.docx

Great, thanks chaps. I've tweaked the speaking note to reflect and will include the material in the email as background

Any thoughts welcome

Gavin Lambert
GRO

From: Mark R Davies
Sent: 25 November 2014 14:58
To: Gavin Lambert
Cc: Tom Wechsler; Patrick Bourke
Subject: Re: lines on the Sparrow position for Alice 1:1 and Board

Hi
Patrick has sent me the following

Draft MD to GL

1. **WG redundant ?**

The central role of the Working Group is to decide on whether any given case ought to be mediated, being informed but not bound, by the recommendation of SS. This is, in our view, reasonably clear from the Scheme documentation, and certainly clear from the operation of the Scheme in practice (until recently when JFSA took the unilateral decision to refuse to discuss cases in which POL disagreed with SS's recommendation). It is also very clear from Sir Anthony's own contributions to the Working Group, notably in his decision in case M054, following submissions he invited from both POL and JFSA on the very question on the WG's role in determining whether or not a case should go to mediation:

"In my view this document (Overview of the Initial Complaints and Mediation Scheme) makes it clear in a passage under the heading "Will my case definitely be referred to mediation?" that the decision as to whether a case should go forward to mediation is entrusted to the WG.

The JFSA stresses the need for independence and the role of SS. In my view, the necessary independence is achieved by giving to the Chair of the WG the casting vote.

I exercise my casting vote in favour of the proposition that the WG decides whether a case is suitable for mediation."

He has also expressed some discomfort at being deprived of JFSA's views on those cases in which POL disagrees with the SS recommendation to mediate, since it leaves him (thanks to his casting vote) as the determinant voice in all cases.

2. SS appointment

To a certain extent, we will likely have to live with some fall-out here. But the quality of their work is very poor. It has also become clear that SS have succumbed to pressure from JFSA/MPs and adopted a default recommendation of mediation in almost all cases (in fact, only 2 to date buck this trend), even where to do so defies any reasonable assessment of the facts, including criminal convictions and guilty pleas. We have countless examples.

However, given that we are likely (as a reasonable organisation) to complete all investigations and in effect simply bring the Scheme in house (rather than terminating it), it may be advisable to maintain an independent element in the design of a new internal process and we could consider SS fulfilling that new role (on a new contractual arrangement).

3. Exposure of our position by Tony

The short answer is that he is bound by a confidentiality agreement. The longer answer is, notwithstanding that he is bound by confidentiality, it is difficult to envisage SAH wanting to be at the centre of a potential stink – there simply is no upside to him doing so, particularly in circumstances where POL would, presumably, wish to praise to the Applicant's responsibility would be odd.

Mark Davies
Communications and Corporate Affairs Director
Mobile: **GRO**

Sent from my iPhone
On 25 Nov 2014, at 10:17, "Gavin Lambert" **GRO** wrote:

Mark

Thanks for your speaking note for Paula which she found very helpful.

Paula asked us to test the argument about making the working group redundant if we were to agree a general presumption of mediation if recommended by SS:

- How do we strengthen our argument given we appointed SS, and the role have the group has evolved given JFSA's line?
- If Tony Hooper supports a presumption of mediation (is this right?), how do we manage the risk to our position of him making this known?

Very happy to discuss

Gavin

Gavin Lambert
 GRO

From: Gavin Lambert
Sent: 25 November 2014 08:59
To: Paula Vennells
Cc: Mark R Davies
Subject: lines on the Sparrow position for Alice 1:1 and Board

Paula – with thanks to Mark, so more detailed lines on the latest Sparrow position for your 1:1 with Alice

Gavin Lambert | Chief of Staff
<image001.png>

5th Floor, 148 Old Street, London, EC1V 9HQ

GRO

GRO

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