

FILE NOTE: MEETING WITH TONY HOOPER
MONDAY 24TH FEBRUARY AT 2:30PM

IN ATTENDANCE: **PAULA VENELLS (PV)**
 TONY HOOPER (TH)
 CHRIS AUJARD (CA)

1. The meeting was held at PV's request in order to discuss the progress of the mediation scheme with TH. It was agreed that the meeting would be held "off the record".
2. PV opened by explaining that she had just finished a meeting with Second Sight (SS), convened for a similar purpose, (the timing of which was in part coincidental) and it was agreed that it would be beneficial to relay to Tony the contents of that meeting. It was also explained that the cost of the scheme was currently running at around £5m, and that that SS had estimated the compensation costs could be up to £50m. The scheme had therefore moved a long way from its initial positioning as something the outcome of which in many cases might be an apology and/or a small gratuitous payment.
3. The meeting with SS had in large measure turned on whether, and how, SS could manage the volume of reports that were in the process of being prepared and which would be with shortly be passed to SS. Overall, some 35 cases were in the pipeline, and PV and the POL team were very concerned that SS would not be able to process these cases, and produce reports on them, in a meaningful timeframe. SS had seemed unable to provide any assurance that they could complete their work by October 2014, the current projected end date of the scheme, with the impression being left that it could carry on much longer than that.
4. TH agreed that SS were very resource challenged, and it would be difficult for them to meet the current timetable. That said, TH's view was that SS were trying to be objective and that they had a difficult path to tread, in that in order to their job properly (in his view) they would need to express an opinion on the merits of each claim. In TH's view, this was something that they found hard to do. Some concern was expressed by PV and CA that SS had not in their correspondence come across as independent, and may be unduly influenced by the need to satisfy certain MPs, and JFSA.
5. The various ways forward were discussed. These included a) terminating the scheme entirely and allowing SPMR's to pursue their legal remedies through the courts and/or paying out compensation to applicants in a formulaic manner (as per the email that PV had received from the A member of the Board earlier in the day) ; b) restructuring the scheme such that it looks more like a mediation scheme (with nothing being resolved until all the applicants CQRs had been received- this would have the effect of pushing out any settlement payments for many months); c) augmenting SS's resources with resources from one of the big accountancy firms, either by displacing them in their investigative role, or by placing resource alongside them; and d) reworking the process in the scheme and streamlining it.

6. TH's strong contention was that POL should take no precipitous action until such time as SS had produced, say, 5 reports, and until we had seen their thematic report. He noted the adverse PR consequences of terminating the scheme and also offered to make himself available to talk to the Board to explain why he considered this approach appropriate, should that be necessary or desirable. He indicated this would be in around four weeks and promised to be in touch at that point; and any time before if helpful.
7. The quantum of the compensation payments was discussed. TH noted that the applicant's CQRs often painted a very distressing picture, where there had been a loss of livelihood, and other losses. His view was that, should the evidence show that POL had not acted properly, then the amount of compensation payable could be quite material [NB this contradicts the legal advice obtained by POL from BD which categorically states that the maximum loss POL could expect to pay would be limited to 3 months "pay" under the SPMR's contract. When this was pointed out to TH, he defended his contention on the basis that 3 month's notice was a different proposition to summary termination, obtaining a criminal record, losing the ability to sell the business etc.] It was not entirely clear whether TH had in mind criminal cases only when he made these comments.
8. TH accepted that the professional advisers who were now asking for additional fees beyond what was set out in the original Scheme documentation would have to be told that no extra fees would be available for them.
9. TH twice indicated that mediation was not necessarily the best option now that we had a clearer view of the wide-ranging claims being made. However, he qualified his comments each time, acknowledging that mediation has many benefits. One of his concerns was that mediation typically takes place before all the facts relating to every case are fully known. He also indicated that SS faced a difficult challenge in that SS will be called upon to make a decision in the absence of a full audit trail. That said, TH's view was that SS will need to take a decision, however uncomfortable that may be, even if their conclusion is that they cannot come up with a firm answer as to who was 'at fault'.

Chris Aujard