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UPDATE RE PROGRESS AGAINST JONATHAN SWIFT RECOMMENDATIONS

16 MAY 2016

No.	Recommendation	Status	Completion Date
1	Legal advice be sought from Counsel as to whether the decision to charge a SPMR with theft and false accounting could undermine the safety of any conviction for false accounting where a) the conviction was on the basis of a guilty plea, following which and/or in return for which the theft charge was dropped, and b) there had not been a sufficient evidential basis to bring the theft charge.	<p>Brian Altman QC has advised that, in certain circumstances, the facts envisaged in this scenario could undermine the false accounting conviction. As a result, the second of these two interlinked questions must also be addressed.</p> <p>Having received Jonathan Swift's feedback on the scope of the exercise, Brian Altman QC is reviewing two sample files initially to determine how the review of 19 Scheme cases can be undertaken in the quickest and most cost efficient manner. This approach is consistent with:</p> <ul style="list-style-type: none"> - the 2013 review of disclosure in past prosecutions, which Jonathan Swift considered to be "reasonable and appropriate"; - the approach to disclosing information to the CCRC, which Jonathan Swift noted was "the appropriate course of action"; and - Jonathan's recommendation that the review could be done under Brian Altman's supervision. 	<p>The review could take a further 6 to 10 weeks to complete, assuming (based on the two sample files) each case contains 1500 documents and are completed at the rate of 2 to 3 per week.</p> <p>We are exploring whether this process can be expedited through engaging a team of junior reviewers under Brian Altman's supervision.</p>
2	If such a conviction could be undermined in those circumstances, that Counsel review the prosecution file in such cases to establish whether, applying the facts and law applicable at the relevant time, there was a sufficient evidential basis to conclude that a conviction for theft was a realistic prospect such that the charge was properly brought.		
3	POL consider instructing a suitably qualified party to carry out an analysis of the relevant transaction logs for	Deloitte have now completed the discovery and scoping stage of their work, and have begun the substantive	Base minimum investigations will be completed end May/early June.

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	branches within the Scheme to confirm, insofar as possible, whether any bugs in the Horizon system are revealed by the dataset which caused discrepancies in the accounting position of any of those branches.	testing of the system they see as being the base minimum necessary to meet the lines of enquiry suggested by Jonathan Swift. They are confident that taking the work forward to this level can be completed by end May/early June.	
4	POL instruct a suitably qualified party to carry out a full review of the use of Balancing Transactions throughout the lifetime of the Horizon system, insofar as possible, to independently confirm from Horizon system records the number and circumstance of their use.	Further testing is possible, and some may even be capable of delivery within the same timeframe. However, given that POL now faces the Freeths litigation (which was clearly <u>not</u> a relevant fact at the time of your Review), we will be seeking advice from Jonathan Swift as to whether it is reasonable to take this exercise beyond the minimum.	
5	POL instruct a suitably qualified party to carry out a full review of the controls over the use and capability of authorised Fujitsu personnel to create, amend or delete baskets within a sealed audit store throughout the lifetime of the Horizon system, insofar as possible.		
6	POL seek specialist legal advice from external Counsel as to whether the Deloitte reports, or the information within them concerning Balancing Transactions and Fujitsu's ability to delete and amend data in the audit store, should be disclosed to defendants of criminal prosecutions brought by POL. This advice should also address whether disclosure should be made, if it has not been, to the CCRC.	<p>The Deloitte Report has already been disclosed to the CCRC.</p> <p>In relation to defendants, Brian Altman QC has advised that, until such time as Deloitte have determined whether or not there is any evidence of actual problems with Balancing Transactions or Sealed Audits (the subject of recommendations 4 and 5), he is unable to advise on whether further disclosure is required. Simply put, there may be nothing which falls to be disclosed and disclosure of any more general nature could lead to unjustifiable, new claims being made.</p> <p>This Recommendation therefore cannot be discharged until Deloitte completes its work or it is done otherwise (e.g. through the Freeths litigation).</p>	June (subject to outcome of Deloitte work; availability of Brian Altman; and volume of material)
7	POL cross reference specific complaints about misleading advice from NBSC call-handlers with the possible employees who provided that advice and consider their	This line of enquiry is now complete and we will be sending Bond Dickinson's independent investigation report to Jonathan Swift QC to ask whether it discharges	May

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	personnel files, where available, for evidence as to the likelihood that the complaint may be well founded.	his recommendation, although we are confident that it does.	
8	POL commission forensic accountants to review the unmatched balances on POL's general suspense account to explain the relationship (or lack thereof) with branch discrepancies and the extent to which those balances can be attributed to and repaid to specific branches.	<p>Deloitte has now completed the scoping stage in relation to this recommendation, the results of which we are still in the process of clarifying, with their help. Deloitte continue to work with POL to try to agree a scope of work to satisfy the recommendation which is within "the art of the possible".</p> <p>However, Deloitte consider that whatever substantive testing is taken forward should be capable of being completed in the end May/early June timeframe.</p>	End May/Early June