

Message

From: Rodric Williams [/o=MMS/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Rodric Williamse9c114f4-b03f-4595-b082-ce89be5c79d47b]
on behalf of Rodric Williams
Sent: 12/12/2014 10:52:37
To: Belinda Crowe [/o=MMS/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Belinda Crowe79b93f11-569f-4526-a078-f5b4958a8917220]
Subject: RE: Sparrow Questions
Attachments: RE: Sparrow Questions

Belinda – your reading is correct. I picked it up too after reading Jess's email, and sent a follow up "mea culpa" email (attached).

The parties can still decide to make public whatever facts about the process public they want, e.g. as we did in Corner/M022.

From: Belinda Crowe
Sent: 12 December 2014 06:59
To: Patrick Bourke
Cc: Rodric Williams; Tom Wechsler; Melanie Corfield; Jessica Barker; Belinda Crowe
Subject: Re: Sparrow Questions

Sorry Rod but my reading of the CEDR guidelines is that the fact of settlement is confidential under the Scheme unless both parties have expressly agreed otherwise.


The Working Group are not entitled to know whether a case has resolved. Sorry if I have misunderstood what you are saying.

A further point for the briefing is that we need to include something about what we are doing re JFSA and Edwin and co. Should draw on Chris' email.

Best wishes
Belinda

Belinda Crowe



On 11 Dec 2014, at 14:57, Patrick Bourke {  } wrote:

Rod

Most helpful – many thanks.

Patrick

From: Rodric Williams
Sent: 11 December 2014 14:56
To: Belinda Crowe
Cc: Patrick Bourke; Tom Wechsler; Melanie Corfield; Jessica Barker
Subject: RE: Sparrow Questions

Not sure if these will help or just confuse, but here are my observations:

- We have to respect the confidentiality of mediation, which:
 - o is there to protect both parties;
 - o is fundamental to all mediations, and inherent in a process which facilitates compromise; and
 - o won't work without it - parties are unlikely to compromise and resolve their disputes if they think what they say and do could become public or be thrown back at them.
- This is the same principle which underscores the privilege for any other type of "without prejudice" communication, which prevents communications about settlement being used as evidence in civil court proceedings.
- The trick though is that you can't hide an injustice (e.g. unsafe conviction) behind privilege, so while a civil court can't hear anything communicated in mediation, we're advised that a criminal court could if it provided grounds for an appeal.
- It's not just Post Office that hasn't seen anything to say a conviction is unsafe. Second Sight haven't either (touch wood), and nor have the applicants following receipt of our Investigation Report, the disclosed supporting materials, and (where completed) Second Sight's report (again, touch wood).
- Further, nothing has been provided to us in response to our direct requests for information asserted to show that a conviction was unsafe (letters to SS, Kay Linnel and BBC).
- If there were grounds for an appeal, the applicant would be eligible for legal aid (I'm not 100% sure of this, so will check).
- Finally, the fact of settlement is not confidential (e.g. "Post Office and Mr Corner have resolved their differences"), but the terms of it will be (e.g. "The resolution involved Post Office writing off a debt of £x").

Happy to elaborate as required.
Rod

Rodric Williams | Litigation Lawyer

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From: Belinda Crowe

Sent: 11 December 2014 13:11

To: Mark R Davies

Cc: Melanie Corfield; Patrick Bourke; Tom Wechsler; Rodric Williams; Jessica Barker; Belinda Crowe

Subject: RE: Sparrow Questions

Thanks Mark,

Helpful. But these are the trickiest questions. However we will add them to the list we are working on for Richard.

On the first: We are not saying we will not mediate cases which have been through the Courts. We are considering each case on its facts. However a conviction can only be overturned by a court it cannot be overturned by mediation. And if the Post Office investigation has not identified anything to suggest, in its view, that the conviction was unsound it is unlikely to mediate.

On the second, even the Working Group does not have access to information about which cases have settled. It only has access to information about whether a case has or has not been mediated. After 15 cases have been mediated it will receive from CEDR a report which shows (Jess, please confirm):

Number of cases mediated

Number resolved

Number not resolved. The reason for this is to ensure that the information provided by CEDR does not in any way make it possible to identify which applicants have settled and which have not.

Jess – could you give Patrick the exact CEDR wording on this. Can you please also clear whatever we are going to say about CEDR with them and alert them to the fact that it may be used in a debate – I think that we can use the letter John prepared for the WG as the source for information.

Best wishes
Belinda

Belinda Crowe



From: Mark R Davies
Sent: 11 December 2014 12:51
To: Belinda Crowe
Cc: Melanie Corfield; Patrick Bourke; Tom Wechsler; Belinda Crowe
Subject: Re: Sparrow Questions

I saw Jo yday at the MP event too and we had a brief chat about the debate. She was very calm and prepared to be robust. She was pleased with our approach so far and wanted to push it back as an operational matter for us as much as possible.

That said she had two areas where she will challenge us and where we will need strong lines:

- why can't we mediate cases which have been through the courts? Her view was that the "other avenues" argument is weak due to cost for ex SPMRs in that position.
- she would like to be able to talk about cases where we have mediated and come to settlements: she wants to be able to show Post Office's good faith

I can see these are both tricky but we should of course do all we can to build up our argument for her, especially as she is supportive.

Mark

Mark Davies
Communications and Corporate Affairs Director

Mobile: GRO

Sent from my iPhone

On 11 Dec 2014, at 11:11, "Belinda Crowe" GRO wrote:

Could we start populating these questions for Jo's briefing.
Patrick, could you hold the pen on these please?

Thanks
Best wishes
Belinda

Belinda Crowe

GRO

From: Callard Richard (ShEx) GRO
Sent: 11 December 2014 11:07
To: Batten Peter (ShEx); Belinda Crowe
Cc: Chris Aujard; Gavin Lambert; Mark R Davies
Subject: Sparrow Questions

Belinda

As discussed, sorry I couldn't join the call last night. Peter and I are working on the briefing jointly, particularly as he is soon to depart and so it helps me get up to speed. In that light I have considered the sorts of questions that Jo will face, which I have listed in the attached, and I would be grateful if you and the team could start preparing the answers given that you are best placed to do so – we just don't have some of the background required.

I would be happy to discuss these, but these are by their nature quite uncomfortable or unreasonable questions, but that is what we will be asked of Jo. Even if we don't speak publically of some of the questions needed in here, we still need the answers to provide Jo privately with the confidence to rebut James Arbutnot's claims. Although we have kept her sighted on the scheme, there has clearly been a limit to what we could tell her given confidentiality reasons to date.

It would be helpful if answers are short and punchy – Jo has to remember them ideally rather than scrabbling around for them.

Finally, I would be grateful for responses asap, but otherwise by close Friday so I have the weekend to look at them and turn them around (our deadline here is 2pm Monday which is a rather tight). I will separately establish what time any verbal briefing might be.

Many thanks

Richard

From: Batten Peter (ShEx)
Sent: 10 December 2014 18:26
To: Belinda Crowe
Cc: Callard Richard (ShEx)
Subject: Sparrow catch-up

Belinda

Many thanks for your time. As discussed, can you please send copies of:

- PV letter to Arbuthnot of 5 November
- The angels and devils briefing (I think that was the name ascribed to it)
- Mark's rebuttals for the Today programme
- Key facts sheet (i.e. # resolved cases, etc)

We also discussed the cost of the WG point. Recognising the risk that any number could be twisted against POL, this is a number that Jo will need to be aware of numerically and from a handling risk.

Best wishes
Peter

Peter Batten | Shareholder Executive | Department for Business, Innovation & Skills | **GRO** | www.bis.gov.uk |

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