

Call with HSF/POL/counsel – 24.1.20

BAQC – independent already. Board considering bringing another QC to oversee disclosure exercise. Junior QC – will push costs, replicate much of the work. Where do we draw line between me and him. If Board thinks issue of conflict, already been involved in post-conviction disclosure exercise and taking shape. Not going to change. How does it impact on any tasks. If take back seat becs of perceived independence or conflict, going thru same issue.

RW – you’ve reviewed 2013 cases. Perception of marking your own homework. Not coming at it fresh clean with new eyes going fwd. Fact haven’t done much during that time is significant. Worried about what James Arbuthnot wd say.

BAQC – know James Arbuthnot. Becs of reputation, no one wd hav anything to say abt my independence. Don’t understand link between fact I advised on prosecutorial function in 2013, and now. Has nothing to do prosecutorial function. This is about how we discl. NPV says we shd go via wide route. If about portrayal, Board couldn’t be more wrong. Couldn’t justify going to another QC. If going to another junior QC, do risk impartiality. Taking POL’s money. BAQC’s position – independence. Always the case w/ private prosecution. Will make it worse rather than better. Ought to have meeting to disc this.

NV – if using CPS as example, there wd b no question of bringing a/r QC unless previous QC had been attacked already. No question of pre-emptive substitution becs someone somewhere wd cast aspersions. Arbuthnot unlikely to do that. BQC best person to take it fwd. Assumption by Board of us marking own homework. It is not.

RW – Board sees lawyers as interchangeable, and tools for optics. Legal advice is polluted product for POL becs of high court litigation.

NV – if abt optics, strongest counter-argument.

CE – sounds like BAQC giving us advice and POL don’t like it. Board may want to put a ‘I agree’ lawyer at end.

RW – getting conflicting advice. Need to crack on with review but now saying need new person who hasn’t read in. When saw CWK’s review, I thought they were marking own homework. But didn’t challenge. Which is why BAQC brought on. Need direction from Board, need action, and legal review properly directed. Process can get moving. And if we need to bring someone new on, it will be akin to what BAQC did with CWK’s review (optic piece). Have a period of time to determine who that might be. Timing issue. Can challenge Board’s direction and then have to crack on with work that has to be done.

BAQC – needs to be disc’d. Want a meeting. NV needs to be there.

CE – Board keen to understanding cases. Know cases where there was theft, but some others which raise diff cases. Want to have meeting and talk about specific cases. Want to arrange separate meeting (I imagine it would be you BAQC presenting – but need to resolve your position first).

RW – focus is Misra and Hamilton, then Thomas, McDonald,

CE – should prioritise those cases. WL to pull together media re them. On HighQ already

NV – where we would start inevitably.

Data retention policy – WBD back on Monday –

NV – going to want to know whether any docs destroyed during group litigation. That should stop, goes beyond Cs, wider pool of convictions.

RW – what we understand is we don't destroy not much. Kept Horizon data from 2007. Fact that we don't have pre-2007, is becs didn't have it 2013.

Hard copies came to us. Security team – POL. Once investigation reached point where they needed criminal law advice, went to RM criminal legal team. Biggest risk is where RM papers that. RM team had electronic papers that we don't hold.

NV – no one destroying anything while we are doing post-conviction discl review. If anything has been destroyed during litigation, can be explained away then, but can't explain destruction now.

RW – have contact name at RMG in criminal law team. Will cc' NV when emailing him.

WL – security team has sent 15 spreadsheets of past prosecutions. P&P has put together list of qu's and collated spreadsheets. Have qu's for security team and wider.

RW – need to work out exactly what we want them to do before peppering w/ requests.

CT – a few qu's high-level. Some of them can be dealt w/ by someone in more senior positions re policy. Need 1-2 ppl who understand spreadsheets. Shouldn't be whole team disc'ing, can liaise w/ them. Have list already. Can send to them. Up to them how they deal w/ it. About plugging information gaps. Granular and high-level.

RW – will get 20 CCRC appns. We need to start collating material responsive for them. Needs to be a bit more joined up rather than just a few spreadsheets. Need to bring them in.

NV – WBD leading on collating material for new s.17 requests becs hav access to material. Need to decide who's going to take lead – prob makes sense that WBD take lead.

RW – P&P can take lead.

CE – need half a day in Chesterfield w/ agenda.

RW – Head of Team on a/l until 3 Feb w/ no access to phone/email. POL Legal to do – will take it fwd. If we can get game plan, need to speak to Security Team, update them, what's going to happen going fwd, how will it manifest itself.

P&P can put together high-level note – list of questions – responding to CCRC and deciding what to do about CPS cases. NPV – we'll put something together and how liaison will work going fwds.

Horizon training – RW – leave that with me.

CCRC agenda – want to make sure got docs, got right people, bow around it to give to counsel. Need to start reading CCRC files now. Feel from Board that they will go with wide review. We have material for 34 appns to CCRC incl Misra/Hamilton/Thomas/McDonald. Board's concern is that there is a narrative and we're just letting it go. Board desperate to decide whether to take pot shots at Misra.

BAQC – did Board suggest abt whether we should review safety or just disclosure. RW – no just on disclosure. Not opining on safety. Agree w/ staged approach to discl and want it started now.

CE – going to be diff issues on some of these cases.

BAQC – DMD has to be completed. No pt embarking on this w/out understanding policy and approach. EK drafting review template – on hold until Board decision. To what extent does Board want us to review CWK's SIFT reports on Misra.

RW – info useful but not replacement.

BAQC – not saying that. Has to be fresh review. But if there is some concern about CWK's review, do we mention? RW – no. if case reviewed by CWK, shd only be consulted if have seen original material, and only to extent of filling gaps. Treat it as second source.

NV – gave you Q&D estimate of reviewing first set of cases. From date of decision – 2-3 weeks. Further 3-4 weeks to review further 31. If Board wants to know – give Board some comfort.

CE – timeframes disc'd. End of Feb for Stage 1 (existing CCRC cases – not new referrals).

RW – review template and high-level doc fine for next week

Board sched for 18 Feb – trying to move that. Last week of Feb – need to have good steer (if only do 20, good – have to incl high-profile ones).

NV – looking at setting up review team to incl junior barristers to work to schedule devised. RW – will get support for that.

Will start checking around for junior barristers.

RW - If can do Misra/Hamilton for first week of Feb – will start giving Board confidence. Want to know everything that BAQC know

NV – going to need BAQC's sign-off on appointing indie silk. Brian has to be involved in month.

Tom Cooper/Tim Parker – need to say "Misra has been saying x in the press, what our actual review of her case is x". Don't know and are looking to us to tell them. BAQC – know Misra well.

CE – CCRC – what should right approach be? NV - Practical stuff about responding to s17 and hearing about new cases. Will be a lot of listening on our part, about how they shd be proceeding and issues affecting referral to CACD. Would want to know what sort of things wd lead you to make a referral? Also demarcation between their role and ours. Ensuring that we are doing is not inconsistent w/ their approach.

BA – wouldn't want to put agenda to them. We are rocking up to assist them, not telling them what's what. Sending agenda means we are saying we will be controlling this.

DPP referral – hopefully can disc w/ them. Even if don't have all-clear, fact that referral has been made, can share w/ them that judge might think they would be interested. Directed us not to say anything before have spoken to DPP. Think they will just send s.17 request.

NV – contact. Don't know Chloe. Know people in policy team (has been delegated there). Unless have reply, wont be any substantive progress. Don't think will be issue w/ us disc letter with CCRC (easy decision).

RW – CCRC can s.17 the court. Sometimes do that.

Roughly 7 CPS cases in train. One is for 87k. Hav asked where that amount comes from. Value of offending will be relevant to sentencing. But value may be derived from Horizon – don't know to what extent D has admitted to sum. Spreadsheet. Main concern is Heeley. A/r case in Nov.

Police know potential Horizon issues – hav rec'd judgments. Security team have said to police/CPS saying if hav any issues/qus about Horizon they can assist. But we haven't seen if hav been any response / don't know if process if they do rec enquiries.

COH – cases on hand –

NV – what was shortfall scheme – CE – remediation project – allows SPMs affected by earlier versions but did not take part in GLO, to make claims and POL will review.

Heeley – assistant to SPM. Shortfall – to what extent do we hold her boss responsible for 140k shortfall. Contractual matter that overlaps with this. Prob doesn't affect what we do w/ CPS.

Distinctn b/t HNG-X and HNG-A legal fiction (NV – CPS cd say A just as unreliable as X). Same bug. Can exist in system. Potential for it has ruled on by Fraser. Up to CPS to decide what is disclosable (starting position is judgment). Feeling is it's HNG-A case therefore discl task smaller and more manageable.

NV – to draft something for Helen to send to officer, copying me. P&P instructd to look at this. Already in correspondence w/ DPP. Whoever gets it will see P&P instructd and DPP informed. Will go today.

Horizon issue con – if hav partic issues, pop in agenda and send to us.

PEAK Issue – CWK instr d – diff. Has stalled. RW – has to get some clarity about tht.