

From: Swil, Jonathan
Sent: 23 August 2014 16:34
To: Band, Christa
Subject: Post Office
Attachments: FW: Second Sight's Draft Part Two Report; Part Two Report; RE: Examples for letter to SS [BD-4A.FID20472253]

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Christa

I have just seen your out of office. I didn't realise you'd be away a further week but have sent you this email anyway as it was already written and if nothing else it brings you up to speed for when you are back on 2 September.

I hope you had a good break.

A few things have been happening on Post Office while you've been gone which you should know about as I will be on holiday next week, back 2 September, and PO may get in touch with us for further help (I don't know if they will, but as you know you can never be sure what will happen next).

You'll recall Second Sight released a woeful draft thematic report and you and I commented on that in early August. Since then:

- Belinda prepared a skeleton draft letter to SS based on our comments on the report. I commented on that draft. For internal political reasons, it was then watered down and became a letter of more detailed comments on the report rather than a general "shot across the bow" as I had first understood it would be. The final 14 August letter is the first attachment.

- PO asked the WG Chairman to delay the finalisation of the report so that PO could properly comment on it and it could be discussed in draft at the WG. But as the first emails shows, the Chair said he wanted SS to publish the final version without further delay and input from the WG, I think because he is fed up with the delay from SS.

- The final report was published on 21 August. Needless to say it is largely unimproved and suffers from most of the same problems as the draft. See the second attached email.

- In the meantime, PO discussed with me another letter to SS which is to be the warning letter about their work and role more generally I had thought the first one would be. This included an overly long 2.5 hour meeting at Linklaters to discuss the first draft and generally talk (often in circles) about what to do about SS. There was some discussion about sacking SS but this is still a long way off. As I mentioned before you went away, they say it is advice about the JR risk of statements the Minister made in Parliament committing to SS that prevents PO sacking them. There was talk about the time coming at some point for the re-assessment of that risk and determining whether it may become worth testing. It occurs to me that statements made in Parliament may be/are protected by Parliamentary privilege (I recall on an old matter in my former jurisdiction, we had trouble relying on Ministerial Parliamentary statements in a JR apprehended bias claim). If they have got respectable advice on the JR point then presumably this was considered and dismissed if it was thought to be relevant. But it may be something we want to consider, or at least it may be worth asking to see the advice in case on closer analysis the risk of sacking SS has been overplayed and sacking them can become a real option.

- The latest draft of the warning letter, which is intended to assert some control over them and, I think, start to set up the sacking process if it is to be an option that is taken in due course, is attached in the third email. I haven't heard back since that email.

I'm not sure if there will be anything for us to do while I'm away but clearly they are very unhappy about the publication of the report and have sought quite a lot of our involvement over the last few weeks.

Jonathan

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