

Hutchins-Ward, Jade

From: Rodric Williams [GRO]
Sent: 06 August 2013 10:33
To: Harry Bowyer
Cc: Parsons, Andrew; Jarnail A Singh
Subject: RE: Horizon Mediation

Thank you Harry.

Kind regards, Rodric

Rodric Williams | Litigation Lawyer



148 Old Street, LONDON, EC1V 9HQ

GRO

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From: Harry Bowyer [GRO]
Sent: 06 August 2013 10:31
To: Rodric Williams
Cc: 'andrew.parsons@' [GRO]; Jarnail A Singh
Subject: RE: Horizon Mediation

Dear All,

Martin was on holiday yesterday and in Barrow on Furness on Post Office business today and has asked me to respond to Andrew Parson's document.

For brevity I have reponded under each point in red.

Any problems - I can be emailed

Harry Bowyer

Barrister

----- Original message -----

Subject: Re: Horizon Mediation

From: Rodric Williams <[GRO]>
To: "'andrew.parsons@' [GRO] <[GRO]>, martin smith
[GRO]
CC: Jarnail A Singh <[GRO]>

Hi Martin - have you responded to this?

If not, can we please have a response first thing tomorrow so as not to hold up getting something to JFSA and Second Sight.

Thanks, Rodric

From: Parsons, Andrew
Sent: Monday, August 05, 2013 01:00 PM
To: martin.smith@
Cc: Rodric Williams; Jarnail A Singh
Subject: Horizon Mediation

GRO

GRO

Martin

I'm helping POL set up a mediation scheme to address SPMRs concerns about Horizon and have a couple of quick questions with a criminal angle that I hope you may be able to help with. Apologies but we need a response relatively swiftly - close of business today if possible.

1. Privilege

The mediations will be confidential and subject to "without prejudice" privilege. Some will involve SPMRs who have been prosecuted. Essentially, we're trying to determine whether criminal procedure / disclosure duties trump privilege.

Disclosure always trumps privilege. If we are in possession of material that undermines our case or helps the case that the defence are trying to put forward then we are obliged to disclose unless there is a basis for a Public Interest Immunity application. There are ways of disclosing evidence that do not disclose the way that it was obtained e.g. Section 10 admissions or disclosure notes

Will "without prejudice" privilege prevent a SPMR from repeating matters discussed in the mediation in later criminal proceedings (ie. an appeal)?

No - once the information is out it cannot be put back in the box. If the sub postmaster discovers something that undermined our case or would have supported his then he can use that as the basis of an appeal subject to the rules of evidence, admissibility etc.

Likewise, if something is said during a mediation that may be material to a SPMR's conviction, is POL obliged to disclose that information to Defence Counsel even though it may have been obtained during without prejudice discussions?

If the material comes from the SPMR himself then the defence already have the information - we do not run the defence case - we just have to make sure that they have the material that enables them to run it - the difficulty arises if the subpostmaster refers to something that had not been canvassed by the defence which triggers further disclosure. It may be that a remark made by the SPMR might open a new area of disclosure that had not been considered by the disclosure officer because the defence had not mentioned it.

2. Mediations and criminal procedure

If an SPMR's conviction is discussed at a mediation, will this cause any problems from a criminal procedure perspective?

No - once the proceedings are over the conviction can be discussed. It would create enormous difficulties should the mediation be conducted whilst the proceedings were still live (including confiscation). We could not use such material to further prosecute a defendant as the abuse would be obvious.

3. Disclosure duty

We've prepared a document that will be going to SPMRs to explain the mediation process. That document contains the statement below. Does this accurately capture POL's disclosure duties and the appeal process?

"What if my case involves a criminal prosecution or conviction?"

You may put your case through the Scheme even if you have already received a Police caution or have been subject to a criminal prosecution or conviction.

However, Post Office does not have the power to reverse or overturn any criminal conviction - only the Criminal Courts have this power.

If at any stage during the Scheme, new information comes to light that might reasonably be considered capable of undermining the case for a prosecution or of assisting the case for the defence, Post Office has a duty to notify you and your defence lawyers. You may then choose whether to use that new information to appeal your conviction or sentence."

Accurate and succinct! - As stated above no one who's prosecution is live should be in the scheme.

Happy to discuss.

Kind regards
Andy

Andrew Parsons

Senior Associate

for and on behalf of Bond Dickinson LLP

Bond Dickinson

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