

Notes of Meeting with BAQC 9/9/13

Persons present:

Jarnail Singh - POL
Susan Crichton - POL
Rodric Williams - POL

Gavin Matthews - BD
Andrew Parsons - BD

Simon Clarke - CK
Harry Bowyer - CK
Martin Smith - CK

Meeting Starts 11 a.m.

QC said had read all of the papers

Gavin indicates wanted to look at the interim report. QC has seen HB response. This is fact finding for QC.

Simon explained had been a discussion at POL. Neatly encapsulate role - Critical Oversight.

One question: The ongoing duty of disclosure. How far does POL have to dig?

QC says going on Hz training.

QC starts with Disclosure; Where are we.

There are three distinct duties:-

1. Pending Prosecutions.

I have read through the full reviews. Some relate to past convictions and others relate to pending prosecutions: Investigation Stage. The Duty only arises on charge. One case there was a caution.

So where charged or in process duty arises and persists. It continues up until the conclusion of the proceedings. It is the same test all the way through.

Case due for trial next week: If disclosure made as landscape changes continuing duty.

Single test: S3 1996 Act – when def statements served pros need to look again.

Following Conviction – CPIA does not apply to period after conviction but does not mean no duty. Have to behave as ministers of justice and act fairly. If applied minds – same benchmark – Cartwright King
Using low threshold = sensible way forwards.

AG has insisted on full compliance.

Looking at, post conviction, for anything which may cast doubt on safety of conviction.

Question: How manage the flow of information?

QC: Not sure how POL works: However have the flavour of it.

Rod: bit of a building on sand. Challenge has been to get them (other departments) to see issues which may impact ours.

Combination of sources where people may become aware of issues.

Simon: We discussed last Friday: main problem is cultural. People in different departments. Needs to be a proper coming together.

Rod: A lot of issues not important – eg turn computer off and then on again. And then things which may affect continuity – still need a steer.

Simon: We said we would write a protocol: roles and responsibilities etc, centrally archived: owners of issues:

QC: Refers to a couple of non identified individuals (referring to SC's Advice on Disclosure and Duty to Retain)

Simon: Think POL have resolved those issues.

QC: Different individuals on call

Susan: People then dump...

QC: Thought I had: weekly meeting cumbersome. Any thoughts to dedicated e-mail box, info shared and someone to monitor.

Rod: Criticism from Interim Report: support and training. Scratchcard reconciliation quick fix took 18 months.

QC: Action sheet. More how going to fix with Fujitsu. Good idea to do and to continue. Objective view – Needs to be more focussed on purpose.

One of the most important players is Fujitsu but they are not on the list. – They are not ITC – that's internal.

Susan: Better to keep FJ on o/s given not resolved GJ situation.

QC: Tactical point of view keep them as third party – not entirely – contractually bound. Anything about sharing information?

Rod: Contract big and rewritten. Certain audit rights and assistance with interpretation. We expanded that on last change, court specific, obtain and analyse, clarified to a greater degree.

QC: They not been resistant?

Susan: No they are just slow.

QC: Last thing FJ want is publicity.

Susan: Anticipate issues re IPR on reprourement. So not on calls.

QC: You have to persuade FJ single point of contact through whom issues should be channelled

Too many people, too many questions and answers and information not shared.

Rod: Not confident we know of issues and how they play out.

QC: Migrating data to new servers?

Susan: Need assurance it will be archived; If they don't...

QC You have to defend with data. If can no longer be found, pack up and go home.

Simon: Doesn't this also apply to civil?

Rod: Comes back to cost.

QC: If they could be duties to pursue all lines of enquiry. Can pen a letter in any particular case: Letter as third party; They own; if cut up rough, can seek summons. May have to flex muscle – this needs to be put on the agenda – although they are third party you have obligations which you have to meet,

not seeking to open the warehouse and so to protect your position make case specific targeted requests.

Rod: we have Transitional Service Agreement: Have taken steps to specify for court support.

QC: Timescale: Some points - 1 year.

Susan; Coming to and end 2015 - extend for 1 year.

If during reprocurement process Hz abandoned, What signal sent?

QC: Cannot think of any other commercial organisation which prosecutes its own cases.

In a tricky situation where the source of the problem you are contracted to, so fairly unique.

Cant do better than what has been suggested to you.

Make sure the disclosure process is beyond reproach.

Bandwagon effect.

Presumably number of subpostmasters trying to see how they can organise their defence. You get fashions. So have to be robust and not too free.

So long as adopt test cant go far wrong.

Simon: Goes back to GJ. Either he not aware of info or FJ ivory tower - not being taken seriously.

Jan this year - Aware of Hz issues. Unaware - - gatekeepers for disclosure.

Part of the Wed am - to ensure get info. Other part - protect POL from future assertions.

QC: practical problem defeated: problem shared and acted upon.

2 Action sheets; Product: Not disclosure but issues to be fixed. Hence why want...

QC: Lets say someone from Network - New problem - You always going back and looking at previous cases.

Simon: Discussed recently.

Purpose of having central repository.

Simon: At moment very low threshold. SSIR and HR.

QC: Next req: Can I have all underlying material.

Simon: Called Registrar yesterday: Ishaq has not appealed.

May become a time need to re-review.

Detected HB: Schedule.

Have a detailed schedule and compare new information v old cases.

Simon: That gives us a steer eg if someone complains about.

Pattern: Missing money and plg to false acc instead of theft. In prep statement says losses arose – don't know how – or alternatively in DS – So if people make a generalised complaint – nothing more to be disclosed – if people start to particularise and as get wise – wouldn't be surprised if don't get it by trial process and be ambushed – that would affect trial. Not expert. GJ too close.

May be cases where want to avoid conflict.

Mead Misra. Before our time and only time.

QC: Seen Jenkins – confirmed by – how many times given evidence?

- 1 - sample – not to show amount of work – but more like when he knew/what he knew. Jenkins = hostage to fortune.

GM: Where are we with replacement?

Simon: Arranging to see two replacements next week. If they are, will put them forwards. 2 experts.

QC: Only danger: If call second expert would make the first disjoint.

Rod: KPMG instruct ICL. One agency joint product.

QC: Two other things. Geographical limits of E and W. If Scot cases prosecuted and NI, what are we doing to ensure not a differential approach.

Simon: Went up last week. Very few true Hz cases – PF meeting with POLicy – Suggested about to terminate all prosecutions: they revisited and recom will be adj til expert.

BTO going to report to PF and BTO to liaise with Cartwright King.

Agreed that BTO will draft for PFO: Pol maintains control.

JSingh: 2 cases NI

Simon: Issues re charges in Scotland. POL has greater control again. Have to disclose to PF and PF making decision. One thing v strong: If they don't like the look it goes.

1st Jan 2010; Close to role out of Hz online.

Susan: That's when the system rolled out - knowing that branches balanced - so thought justifiable date.

Simon: And public knowledge - any disgruntled person will know.

QC: Misra concerned: Pre Hz online case - issues were as detailed as I've seen. She went to prison. Jenkins gave evidence - Training and Hz issues : Prof McL - much of it Hypothesis - that is a case slipping through the net.

Susan comments that she has applied for mediation.

QC: How are we going to deal if she comes forwards and says similar...

Susan: Either review all pre 2010 cases - or we do nothing and wait for them to come forwards.

QC: Next problem: What disclose?

Rod: We will always have people who want to go back and if we do, trying to prove negative.

QC: Cant avoid question:

Provisional view: sensible date to adopt. But cant avoid possibility Misras may crawl out of woodwork: deal with on case by case basis unless someone states cut off unreasonable.

So any individual for 2005: I was prosecuted and pl g

Misra unique.

RW: Explains issues. Computer handles stock: Challenge - I didn't take it: Double entry: first balance - money went somewhere.

Simon: So that's why changed from theft to False Accounting.

QC: With a case like Misra – Authority to look at Bank Accounts – Out of Court – Don't recall enq in Misra.

Jarnail: Misra blaming employees

Simon: Now would have dealt with Misra differently. Doesn't matter what Hz is doing – should have gone to POL...Realworld come up against training issues.

QC: Good Jury Points

Gavin M: Misra: Apologise?

QC: I wouldn't.

Gavin M: Problem with mediation?

QC: What is POL view of mediation?

Susan: Last 10 years – rumbles; Chairman backed into corner. Have to find another way of dealing. Some mentioned support issues in Network. Has to be a vent, otherwise end up with parliamentary...

QC: See mediation for anyone who is outside scope of criminal scheme. I think storing up problems. Is she considering out of time appeal?

AP: Open scheme: target top 200 most difficult cases. 2 phases. Phase 1 2nd Sight look at and produce report. Report then goes to mediation.

People are talking about compensation, some want public apology.

QC: You are dealing with people who are convicted and

Susan: as soon as you start handing money or apologise to convicted sending signal out to court of appeal.

RW?: Mediation. We in control – rather than Arbitration.

Susan: None of these cases I've looked at. Got to be seen going through the cases.

QC: Second Sight making decision about giving SPM disclosure

Susan: Propose 2nd Sight giving info

QC: No problem with mediation. However do have a problem with someone going convicted to scheme. My view is storing up problems with Misra.

Susan: Route B: If wedded to criminals having access, what you say to them is correct and could end up in CofA

Andrew: What sort of problems anticipate?

CK to have mediation pack.

QC: Concerned about Second Sight during disclosure and CK doing it blindfolded. CK - confidentiality issues. "nd Sight - not confidential.

Amend letters to quote SFA re confidentiality.

QC: We can end up going in circles on Misra. You have to do what you think is the right approach: Avoid too many people sending it out. Otherwise what CK doing is a waste of time.

Second Sight packages: Somehow CK going to need to be made aware of material. CK need to know. Shared, audited and properly recorded.

QC: GJ not performed his disclosure role as expert witness. Why disclosure to SS - Incompetence rather than dishonesty.

Retention of Material: On top of

Big Issue: Fujitsu changing system. At any meeting high on Agenda.

2nd Sight: Interim:

Susan Chair going to see James Arbuthnot this week and see what they are expecting.

QC: Have done some Spot Reviews. Not seen. 3 sifts.

Need a list of all those cases spot reviewed.

At the moment on the right lines just control it.

QC: Moving onto HB's response: Comment on BAQC Review Roman 6. Question is disclosable, remains to be seen. Have to make sure anything pops out...

HB: At the time worried action not being taken.

Simon: Will take you up on review of Wednesday protocol.
Micromanagement protocol.

Made a few early suggestions: draft response to CCRC.

QC: Had not seen review protocol.

QC: Issues

Concerned original trial lawyers are sifting and reviewing. HB though only a small number. Just think to be on the safe side if find yourself being the sifter or full reviewer of case prosecuted at trial move it over – only in cases where not advised full review or full review and no disclosure.

QC: Did sort of understand not just Hz - also training and support.

What does question was or might reasonably Hz have been more than just the information provider mean?

SC explains Type A/B etc

QC: What does reasonably add?

Training?

Pack and Discussion.

SC: Confident sifters knew what they were doing.

QC: Helen Rose: Typo 12th June/6th June. D'Arcy, Ishaq and Hirani – Is only one report.

QC: Terminations: Samra – Wouldn't terminate.

SC: Concern Type B.

PII App – didn't want to disclose prior to publication. J wants written report.

Brown and Knight discontinued.

QC: Can prosecute without an expert.

HB: Would be much happier with an indep expert.

Point 14: Throwing back CCRC – draft summary. That particular point did not appear in the letter which went out.

QC: Doesn't appear to me to be the need to summarise issues.

Para 16. Know of no abuse argument.

QC: Think what you're doing is fundamentally sound. May be differences of opinions within a range of reasonable responses.

Hutchings worried me.

Fact no defence statement served she having made ref to inadequacy of helpline - Para 13 and Your para 15 - 2nd Sight and HR would not have been disclosable - express ref to Eden and positive ref to false accounting.

QC: Just felt it may be right, prosecution considering its duties, what would we have done then. May prefer what should we do now: don't think any harm in disclosing reports.

Letters going out to people post conviction - pro forma - think again how you draft because, Ishaq one, don't think incorrect - add, "Additionally prosecution recognises its obligation post conviction to disclose any info which may affect the safety of a conviction."

Notice you give advice on whether you would oppose appeal.

Not unhappy.

Manku - Investigation Para 14.

As this is a case where....

Only reason HR concerns - one line 0 Integrity Issues.

RW: Still believe unfortunate phrase from her.

Whilst acting in cases where GJ acted it goes to his credibility.

SC - Scary.

If in doubt only one decision to make.

Grant Allen - Para 14: Not primarily about Hz. Felt almost certainly right. Keep under review.

QC: Nothing more to raise. Thank you. My provisional view.

RW: Where go next. What I'm taking away (1) Fundamentally sound (2)
Provide QC with mediation things...my idea of review process going
forwards/positioning

QC: Would like to have a chat without the CK team here.

RW: What else want from us?

QC: Don't know. Whose been invited to Wed meetings and why, Hz manuals.