

[Protective Marking Redacted]

Meeting note for Peter Fish, Govt Legal Department DG for Home Office, MoJ, Defra, DCLG and Employment Group.

Date: 20 May 14:30 in [REDACTED]

Attendees: Sir Martin Donnelly (SMD), Peter Fish (PF)

[REDACTED]

SMD mentioned that the James Eadie Counsel note would not be shared with him. [Redacted on LPP grounds]

[REDACTED]

SMD set out he would like Jennifer Morrish (JM) to read the Review to ensure that there was no legal issues with the narrative.

SMD and PF discussed who decides on legality. Sir Adrian Fulford (SAF) had felt MI5 were sailing close to the wind and he could have called it either way. MI5 consider their legal view as the only.

[Redacted on LPP grounds]

PF shared his personal view that he felt that there was a cultural issue in MI5. There was a distinct lack of movement in the lawyers. He mentioned a recruitment campaign where the MI5 "lifer" was seen as a better candidate than an external lawyer. The general GLD culture of "phone a friend" approach to any legal issue for discussion/ consideration was not something that was replicated with MI5 lawyers. Any issues continued to be internalised. MI5 lawyers see their position is to defend MI5's position. There is regular contact with the MI5 lawyers, but this issue was not shared.

PF explained GLD and HOLA are not resourced to "oversee" MI5 working and believe their lawyers should do so. PF mentioned that correspondence often went to IPCO before it came to light at the Home Office [with the inference that ideally it should be the other way around].

What needed strengthening? Both legal and policy oversight from the Home Office. PF noted that the HO pulled back from the more rigorous oversight in the 70s/80s. The relationship at Jennifer/Sam level with the lawyers and Chloe/Graeme Biggar level was good. At the [OSCT] DG level the focus was more towards Mark Sedwell/ Perm Sec.

SMD asked about a dotted line between HOLA and MI5. PF thought this might be challenging. The link with one of the GLD DGs might be useful to provide support professionally. There was a challenge noted with regard to pay structures being different in MI5 than GLD.

SMD asked about a Legal Director [there isn't one in Mi5] being on the Management Board as an idea. [Redacted on relevance grounds]

[REDACTED]

HO oversight meetings and HO Lawyer conversations- these tend to be strategic in nature rather than on specific issues as they arise.

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PF mentioned he sits on the Home Office Board to ensure legal risk gets the attention it should but notes there is a balance with other risks across the department.

[Redacted on LPP grounds]

SMD reflected on how "changing circumstances/ context" might prompt such new legal considerations as a matter of course- i.e. to review the *[TE]* [REDACTED]. PF said this was difficult, but in this case would have been a benefit.

PF also mentioned he felt MI5 could have presented an assessment on how the legal obligations are being met rather than what happened and when approach that followed.

Maybe greater reporting is needed on aspects the Home Secretary is specifically responsible for?

PF mentioned HOLA resource is an issue. Lots of Bills are being planned as well.

SMD asked PF to reflect on the role of lawyers in the future. It was agreed SMD would meet with PF mid June maybe with JM to discuss firmer recommendations forming.

Action: CIR to book meeting with PF/JM mid June

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