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Filenote

Victorian Government Solicitor's Office

File details	Meeting Fin McRae and Luke Cornelius (later joined by Steve Smith) and Isabel Parsons of VGSO				
Name/initials	Isabel Parsons				
Date/time	16 November 2009 at 11.30am				
Duration (if approp)	100 mins				
Telephone (in)	<input type="checkbox"/>	Telephone (out)	<input type="checkbox"/>	Drafting advice	<input type="checkbox"/>
Drafting documents	<input type="checkbox"/>	Instructing in court	<input type="checkbox"/>	Interviewing witnesses	<input type="checkbox"/>
Drafting statements	<input type="checkbox"/>	Conference call	<input type="checkbox"/>	Research	<input type="checkbox"/>
Meeting client (in)	<input type="checkbox"/>	Meeting client (out)	<input type="checkbox"/>	Other	<input type="checkbox"/>

1. Meeting to discuss high level review of witness' documents, provided to us for review.
2. IAP noted that the witness had not supplied tracked versions so that the documents had to be manually reviewed to identify changes. However, it is clear that there are some high level issues in the changes proposed:
 - 2.1 Quantum of lump sum financial assistance is excessive.
 - 2.2 Basis for payment as specified in the agreement is incoherent – e.g. inconsistent signals re continuing to work and payment of work expenses.
 - 2.3 The relationship between lump sum and the recurrent payments is unclear – it appears intended that the recurrent payments continue even after the lump sum payment.
 - 2.4 Obligations to give evidence are expressed to be conditional upon Victoria Police meeting its obligations – this introduces the idea that witness might terminate the agreement without giving evidence for a perceived breach by Victoria Police. Drafting is incoherent - the lump sum appears to be payable *after* the giving of evidence in any event.
 - 2.5 Details added in relation to coronial inquest and other assistance appear to be creating uncertainty in relation to the ending of the term and also the obligation to pay the lump sum.
 - 2.6 Real problems re inducement are now creeping into the document re inconsistent treatment of threats (disclaimed in recitals but relied upon as part of the grounds for payment of lump sum).
 - 2.7 Expanded categories of expenses sought.
 - 2.8 Refusal to indemnify or release the State – it is a requirement that any final payment on account of financial assistance be in full satisfaction of any and all claims.
3. IAP also advised that there were a number of areas of less critical significance which would need to be addressed in any re-drafting of the agreement:

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- recitals that are clearly incorrect and inconsistent with other provisions of the draft; and
 - refusal to accept our amendments in relation to flexibility concerning witness' case officer – which we assume will present continuing operational issues.
4. There was specific discussion of the expanded events in 6.1 of the Agreement. Luke Cornelius rang to check what assistance the witness is giving in other matters. He instructed that this agreement needs to be amended to refer only to the evidence the witness is capable of giving in relation to the major matter. Witness has agreed to give evidence in the form of a draft statement. The witness may have offered to give a further statement in the major matter and the agreement should cover this, rather than be drafted to preclude this. It is not certain whether there will be a coronial inquest in relation to the major matter, so reference to this should be deleted. Need to cover any retrial or proceeding related to the witness/ evidence.
 5. Payments with respect to the life of the witness post giving evidence must demonstrate a link between the giving of evidence and the change in status of the witness.
 6. Luke Cornelius instructed that all security arrangements are to be removed from the agreement. As the witness is not participating in the Witness Protection Program, arrangements for security will be ad hoc and at the discretion of the CCP. LC takes the view that the only basis for setting out an agreement with respect to security is under the framework of the WP Act.
 7. Agreement could still include an obligation for witness to advise VP of any discretionary travel undertaken, and to co-operate with any arrangements that may be made for security.
 8. He asked Steve Smith whether the witness believes that security is being provided at present. Steve advised that she does not – if VP chooses to do this covertly she would not be aware it was happening.
 9. IAP asked for instructions as to what assistance is currently being provided to the witness. Steve Smith advised that VP [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 - [REDACTED]
 10. There is a problem re accommodation. Clause 2 of the witness' version of the schedule refers to [REDACTED] to be agreed between the parties. There is currently a dispute between the witness and VP as to where this should be. Witness wants to [REDACTED] VP has advised it is not consistent with threat assessment to [REDACTED] Currently there is a stalemate.
 11. Luke Cornelius advises that as witness is not prepared to accept our advice in relation to accommodation, this agreement cannot make any provision for

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- ██████████ This is only something that can be incorporated into an ██████████
██████████
12. Luke Cornelius advised that he is concerned not to ██████████ for the witness on an ongoing basis that is inconsistent with the witness' threat assessment – i.e. if that indicates witness will be under heightened risk in a particular area or situation, then VP will not be directly meeting this cost.
 13. Instructed that the revised agreement should reflect the following principles in addition to specific matters referred to above:
 - 13.1 Interim arrangements with the witness should reflect the status quo in relation to payments, ██████████. If ██████████ required because of increased security risk then witness will be invited to ██████████
 - 13.2 Separate lump sum to bring relationship to an end, not as an inducement to the giving of evidence. This must be in full satisfaction of any claim and no payments can continue thereafter.
 14. There was some discussion about the quantification of any lump sum payment, and whether VP should respond as a matter of principle in relation to computation of this amount. An alternative would be to suggest that the witness explain how this sum was arrived at.
 15. It was noted that to advance any commercial discussions with the witness, we would need more detailed financial information. This documentation will be required in due course as a basis for any recommendation to the Minister that an agreement including a lump sum be entered into. It is also essential to meet appropriate requirements and standards in relation to the expenditure of public moneys.

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