

issue is raised, he asks a Flight Crew Manager to contact the pilot about fatigue and make sure the fatigue form is filled in. If they receive a number of fatigue reports for the same sequence of duties, they would make sure that the sequence was changed. Mr Scadeng said that, when he passed the email to Jo Smith, he was not specific as to what he wanted her to do; he just passed the email to her and asked her to deal with it. Jo Smith was his "right hand woman". When asked by the Judge why no one went back to the claimant about his question as to how the duty time of 12 hours 30 was arrived at, which the claimant again raised in the pack he produced and sent to Mr Scadeng prior to the disciplinary hearing, Mr Scadeng replied that he viewed the email of 7th May as about fatigue and his view about the rest was that it was "intended as entrapment" and that they needed to be cautious. Mr Scadeng said that Mr Thorington had been dealing with events on the 6th May because he was Duty Manager and he had briefed Mr Scadeng verbally on the day about events. Mr Scadeng said he did not discuss the claimant's email of 7th May with Mr Thorington because, by then, Mr Thorington was no longer dealing with matters.

31. On 8th or 9th May 2014, Mr Thorington sent an email to Mr Scadeng. For reasons which have not been explained by the respondent, the copy of this email which appears in the bundle does not have the normal email header, nor does it identify, either on the document or in the index, that the email was sent to Mr Scadeng. Mr Thorington identified the document in his evidence as an email which he sent to Mr Scadeng and Mr Scadeng confirmed this. Since the email header is not on the document, it is not possible to verify whether it was dated 9th May 2014, as typed on the top of the document and in the index. Mr Scadeng thought that it was sent to him either on 8th or 9th May.

32. The email gives a detailed report of the events of 6th May from Mr Thorington's perspective. Mr Thorington wrote that he was informed on 6th May that Mr Simkins had phoned in the previous day to question the flight and whether it conformed to normal planning rules. He wrote that, according to crewing, the claimant made a remark that he would not be exercising discretion for this duty, the day before the duty in question, based on the fact that he had completed two early morning simulators immediately prior to this duty. Mr Thorington wrote that they were hopeful that, using high speed flight plans and arranging quick turnarounds, discretion would not be required. He wrote that there was no availability of cabin crew in Gatwick or Birmingham so the decision was made to flight follow and review during the day. Mr Thorington wrote that good progress was made on the flight and it looked likely that discretion would not be required based on the progress of the second leg, but departure from Antalya was delayed due to runway change and other small impediments so that, when airborne, it was predicted that the aircraft would go into discretion. Mr Thorington says he was informed that the claimant had used the high frequency radio to ask where the company wanted him to land. Based on the latest predictions, the claimant was showing about ten minutes of discretion at landing but Mr Thorington said there was potential for more savings in the aircraft and they discussed getting a tug to tow him in as an option (we note that this would not reduce the FDP since the definition of this runs until the aircraft is on chocks). Mr Thorington wrote "there was no viable plan to crew the aircraft following a divert but, as the use of Commander's discretion is based on safety considerations, this was not something I would expect the Commander to prioritise and, therefore, we decided that Mike was best placed to determine appropriateness of continuing to