

STRICTLY PRIVATE & CONFIDENTIAL – SUBJECT TO LEGAL PRIVILEGE

SPEAKING NOTE FOR POST OFFICE MEETING WITH CRIMINAL CASES REVIEW COMMISSION – 8 MAY 2015

Attendees

Sally Berlin, Casework Director (CCRC)
Frazer Stuart, Legal Advisor (CCRC)
Amanda Pearce, Group Leader (CCRC)

Jane MacLeod, General Counsel (POL)
Rodric Williams, Solicitor, Corporate Services (POL)

Meeting Agenda

1. Role of the CCRC and how it conducts its work

2. Background to the Complaint Review and Mediation Scheme

2.1 Post Office and the Network

- Retailer selling Mails, Financial, Government and Telecoms products and services
- UK's largest branch network – 11,500 branches; 8,000 agents
- Independent from RM since April 2012
- PMs appointed under contract – not employees
- PMs handle PO money - £70 billion cash and £636 million coin p.a.
- Duty to account under contract and common law (agency)
 - o Daily cash declarations
 - o Weekly balance (recommended)
 - o Monthly Trading Period Roll Over
- PO monitor branch accounts
 - o expected levels of cash holding
 - o large and/or frequent adjustments
- Audit if question about declared levels of cash holding:
- If audit reveals shortfall (i.e. less cash in branch than declared), options include:
 - o recover shortfall (contractual right - "*all losses caused through his own negligence, carelessness or error, and also for losses of all kinds caused by his Assistants*")
 - o suspend pending investigation (contractual right)
 - o termination
 - o civil debt recovery (may lead to bankruptcy)
 - o potential prosecution if criminal conduct is suspected
 - private prosecution under Prosecution of Offences Act 1985)
 - c. 50 per year

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- accompanied by Proceeds of Crime Act applications

2.2 PO uses the “Horizon” PoS accounting system in every branch:

- Supplied by Fujitsu
- First introduced in 1995; current version (Horizon OnLine) introduced in 2010
- Currently >60,000 users processing 6 million transactions a day; 2 billion transactions a year
- 500,000 users since launch
- Relied on by our trading partners (HM Govt., banks etc)
- Key Principles:
 - o double entry book keeping
 - o exact record of counter transactions stored in secure audit database

2.3 Some PMs started attributing branch losses to Horizon

- Early 2012 James Arbuthnot MP asks POL to look into it
- In 2012 POL instructs Second Sight to look at some of the cases
- First report in July 2013
 - o “no evidence of system wide (systemic) problems with the Horizon software”
 - o issues with the way we dealt with individual PMs, i.e. branch operation practices and processes

2.4 PO very concerned about the impact on criminal cases

- considered content of July 2013 report against the prosecutors’ duty of continuing disclosure
- set up the “sift review” process
- suitability of that approach checked by Brian Altman QC
- made disclosures as a consequence of those reviews
- revisited approach to agent engagement, incl. account discrepancies and prosecutions

2.5 Scheme to resolve individual complaints:

- Set up with Stakeholders – JFSA and J. Arbuthnot in particular
- 150 applicants
 - o 44 involve a criminal conviction
 - o 17 of 20 s.17 Notice cases (cf. Case Crib Sheet)
- Progress visible to applicants, advisors, and the Scheme’s Working Group (SS; JFSA; Tony Hooper).
- Certain MPs also updated
- Stakeholders begin publicly challenging the Scheme in Dec. 2014
- March 2015 PO decides to put all cases through to mediation except those with a court ruling

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- we won't mediate a case where there is a court ruling on the substance of the complaint which mediation can't change
 - WG now redundant BUT work still visible to applicants, advisors, and SS, with MPs being offered meetings to discuss individual cases.
- 2.6 Focus of complaints continues to be PO's processes and practice
- SS investigations:
 - *"have shown that the majority of branch losses were caused by 'errors made at the counter'"*
 - Recognise losses also caused by fraud / theft (by SPMs or third parties)
 - recognise that deliberate false accounting prevents investigation into losses
- 2.7 SS expressly accept it is not expert in criminal law and procedure BUT still in Part Two state PO might not:
- investigate claims properly
 - have the evidential foundation to bring a criminal charge
 - properly apply the Code for Crown Prosecutors / be improperly motivated in bringing a charge (asset recovery)
- 2.8 These statements have entered the public domain and may encourage people to take action
- 2.9 Other avenues being pursued by applicants
- Media coverage
 - Westminster Hall Debate / BIS Select Committee
 - Threats of civil court action
 - DSARs – 35 as at 8 May 2015
 - CCRC applications – 20 as at 8 May 2015

3. Categories of Responsive Documents and Materials

Note that documents:

- will be both hard and soft copy, inconsistently across the cases given their date range; and
- are likely to be sited in various formats and locations.

Materials requested (per s.17 Notices)

- 3.1 "Audit Files"/ "Investigation Files"
- Green File (Security File)
 - Other documents held by:
 - Criminal Investigator
 - Financial Investigator
 - Contract Advisor

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3.2 “Prosecution Files”

- Buff File (RMG Legal)
- Orange File (Cartwright King)

3.3 “Internal Reviews”

- “SIFT REVIEW” (cf. Brian Altman QC Advice)
 - o First Sift, Second Sift, Full Review
 - o Not every s.17 Notice case has been Sift Reviewed

3.4 “External Reviews”

- Complaint Review and Investigation Scheme documents

4. Delivery to CCRC of Documents and Materials

4.1 Method of delivery

- Lots of material - suggest “Data Room”
 - o Logon page (username; password)
 - o Workspace page (1x per case) listing files - CCRC to confirm
 - o List of file documents (individual control number; type; description)
 - o Review page (flags; comments etc)
- (Remote) Training and Tech Support available

4.2 Time frame

- Upload electronic documents
- Scan hard copy documents
- 1 to 2 days to commence process
- 48 hours after upload before available on-line

4.3 Sequence of delivery – CCRC to confirm

- “Complete” case?
- Category of documents (may be easier given the variety of sources)?
- Sample?

5. Points of contact

CCRC nominated Gregg Cooke, Casework Administrator

- Is this still correct?

6. Public statements

6.1 What is the CCRC’s approach to publicity / media engagement?

- There are a number of interested journalists following this matter
- We’ve seen the comment made to Computer Weekly

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- We have stakeholders whom we need to manage (HM Govt., trading partners etc)
- Makes it difficult to leave some statements unchallenged

6.2 Part Two Report

- POL requests keep confidential under s.25 CAA
- Significant recent publicity (BBC, Daily Mail, Computer Weekly)
- POL continues to assert s.25 protection over Part Two (and all other documentation), notwithstanding others' breaches of confidentiality

7. Actions

- RW to circulate note of meeting
- Other?

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