

POST OFFICE LTD

CLARIFICATION

1. I am asked to clarify the meaning of paragraph 4iii. of my Note dated the 12th December 2013. That paragraph reads as follows:
 4. The result of this process therefore is three-fold:
 - i. POL is protected from Malicious Prosecution claims by the very process used to initiate and pursue prosecutions;
 - ii. Should a legitimate claim for Malicious Prosecution emerge, that claim would properly stand against prosecuting solicitors and not POL;
 - iii. That protection would not be available to an organisation which conducted its prosecutions 'in-house', that is, in POL's case, using lawyers employed directly by POL.
2. POL does not conduct its prosecutions 'in-house'; that term denotes the direct employment of lawyers by the prosecuting agency, *i.e.* as directly-paid employees of Post Office Ltd. Were POL to conduct prosecutions using lawyers directly employed by POL then those lawyers would advise POL on matters related to whether or not a prosecution should be commenced and would conduct prosecutions on behalf of POL. It follows that the decisions of those employed lawyers would be subject to scrutiny were there to be a claim in Malicious Prosecution, and POL would be answerable for the actions of those employed lawyers.
3. Thus the main disadvantage of the process of conducting prosecutions 'in-house' using directly-employed lawyers is that of a perceived lack of independence, thereby giving rise to the potential for allegations of bias, undue pressure and worse. It is in this context that a claim for Malicious Prosecution may arise, because the protection

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offered by the independent scrutiny and advice offered by the engagement of outside lawyers is absent.

4. The process currently operated by (POL) necessarily involves the instructing of independent solicitors, Cartwright King Solicitors and it is for this reason that the protection against suit for Malicious Prosecution is available to POL. I reiterate :
 - a. when POL initiates a prosecution, it only does so only after having obtained the considered advice of independent lawyers;
 - b. where a prosecution is conducted it is done so by independent lawyers.
 - c. Thus, where POL follows it's established procedure of instructing outside independent lawyers to advise upon and conduct prosecutions, those prosecutions are subject to independent scrutiny sufficient that any claim for Malicious Prosecution will lie against those outside lawyers (Cartwright King Solicitors), they having advised on and conducted the prosecution.

Simon Clarke
Senior counsel
Cartwright King Solicitors

12th September 2013