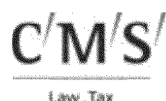

From: Helmer, Stuart [GRO]
Sent: Mon 15/12/2014 11:34:52 AM (UTC)
To: Rodric Williams [GRO]
Cc: BARTY, Susan [GRO]; Reid, Tom [GRO]
Subject: RE: Post Office interview

Thanks Rodric. We are putting together a revised draft of the letter. In the meantime, is there any chance you could let us have pdf copies of the emails? After a few pages the messages are so compressed to the right side of the screen that there is only one letter on each line.

Thanks

Stuart

Stuart Helmer
Senior Associate



CMS Cameron McKenna LLP | Mitre House, 160 Aldersgate Street | London EC1A 4DD | United Kingdom

www.cms-cmck.com

www.law-now.com

From: Rodric Williams [GRO]
Sent: 15 December 2014 11:19
To: Helmer, Stuart; Reid, Tom
Cc: BARTY, Susan
Subject: FW: Post Office interview

Tom, Stuart – please see below.

From: Mark R Davies
Sent: 15 December 2014 10:30
To: Susan.BARTY [GRO]
Cc: Rodric Williams; Melanie Corfield; Ruth X Barker; Chris Aujard
Subject: Fwd: Post Office interview

HI Susan

I'm sending you below the long email chain I have had with the BBC over the weekend. As discussed we would now like to send a legal letter citing Ofcom guidelines. I think we are in a very reasonable position.

Given the questions posed by the BBC (which are at the end of this letter) I would very much welcome your view also as to the implications of the BBC making these allegations - my own media law view is that they are stepping into dangerous territory if some of these allegations are made.

Mark

Mark Davies
Communications and Corporate Affairs Director

Mobile: [GRO]

Sent from my iPad
Begin forwarded message:

From: Mark R Davies [GRO]
Date: 15 December 2014 10:27:11 GMT
To: Ingrid Kelly [GRO]
Cc: Nick Wallis [GRO], Jane French [GRO], Melanie Corfield [GRO], Ruth X Barker [GRO]
Subject: Re: Post Office interview

Hi Ingrid

I am aware of the complexities of making a programme. I remain perplexed, however, as to why you require a further 2.5 days after today to do so and are not prepared to incorporate a Post Office interview in that time.

Our spokesperson, as I have said, is involved in Mediation Scheme work all day today and tomorrow. I am not prepared to jeopardise that work to accommodate your unreasonable schedule.

Best wishes

Mark

Mark Davies
Communications and Corporate Affairs Director
Mobile: [GRO]

Sent from my iPad
On 15 Dec 2014, at 09:34, "Ingrid Kelly" [GRO] wrote:

Dear Mark,

I am sure you are aware that making a programme involves far more than merely filming. As I have said it is not practically possible for the team to accommodate an interview after today.

As you maintain your designated interviewee cannot possibly accommodate an interview at any point today – despite our offer to be available either before or after their normal working day (though the former is clearly now redundant) then we too are in a difficult position.

If this person is the only person within the Post Office who is appropriate for interview, then I'd be grateful if you could ask them to consider being interviewed at the end of their working day today.

Failing that, then as I've said, we will fairly reflect the post office's position within the film whether or not you are on the sofa.

Regards

Ingrid

From: Mark R Davies [GRO]
Sent: 15 December 2014 08:58
To: Ingrid Kelly
Cc: Nick Wallis; Jane French; Melanie Corfield; Ruth X Barker
Subject: Re: Post Office interview

Dear Ingrid

You have singularly failed to set out why you need two full days to prepare your film and why the interview you requested must happen today. This is not reasonable.

We stand ready to take part yet you refuse to budge from a self imposed deadline and are unable to explain why you require more than 48 hours to prepare a film, having presumably shot most of it, including several interviews designed to traduce the Post Office's position. I note from his Twitter feed that Nick was filming for 10 hours on Thursday.

While we would like to appear in your film we reserve the right to ensure that, given the range of issues you are raising, we make the most suitable person available. She is not available today due to work on the Scheme. I am therefore stuck - do I place the Scheme and the interests of applicants ahead of your request? The answer here is obvious.

We will send you a statement and a very full document setting out the answers to the questions posed by Mr Wallis. I would request that given your refusal to accommodate a full and proper Post Office interview the statement is used in full.

We did indeed suggest that we have a slot on your sofa. I didn't imagine for a moment this would mean a scenario where our points would not be reflected through interview in your film. It provides no real opportunity for the Post Office to respond to the serious and unfounded allegations you plan to make.

Best wishes

Mark
Mark Davies

Communications and Corporate Affairs Director

Mobile: [GRO]

Sent from my iPhone

On 14 Dec 2014, at 22:38, "Ingrid Kelly" [GRO] wrote:

As i have said unfortunately the team cannot accommodate a filmed interview beyond monday. Far from asking you to prioritise us over the scheme, we've said we can accommodate the interview as early or late tomorrow as necessary to suit your allotted person so as not to interfere with their working day. If neither you nor any other spokesperson can be available then, as ever, we can accept a written response. Appearing live in the studio on the sofa after the film was your suggestion which we were happy to accommodate. Should you no longer wish to do that then while it is disappointing, it is your decision. The offer remains open.

Regards

Ingrid

On 14 Dec 2014, at 21:19, "Mark R Davies"

[GRO] wrote:

Hi Ingrid

Thanks for this. I am struggling to understand why it "needs" to be on Monday, particularly as, for the reasons set out in my earlier emails, we are unable to provide a suitable spokesperson on Monday due to competing business priorities related to the Scheme and applicants. It would be ironic indeed if we were to relegate these responsibilities.

As I've also said, and as Nick has acknowledged, your sofa slot will not provide a suitable forum for the Post Office to respond to the very serious and unfounded allegations you plan to make in what will now inevitably be a film which does not present a full and rounded picture. It would be extremely unfair to suggest as you do now that a minute or two in the studio will provide suitable opportunity for the Post Office's position to be fairly reflected.

Given the circumstances therefore we could not appear in the studio.

I ask you again to please reconsider your refusal to accept a Post Office spokesperson for your film on a more reasonable deadline.

Many thanks

Mark
Mark Davies

Communications and Corporate Affairs Director

Mobile: GRO

Sent from my iPhone

On 14 Dec 2014, at 17:53, "Ingrid Kelly"

GRO wrote:

Dear Mark,

As I've said if you or a colleague wish to be interviewed for the film then it needs to be on Monday. You may feel late Tuesday is reasonable but as i've made plain from the outset, beyond Monday is not possible for us.

As i've also said any monday interview can be as early or as late as you wish. Should neither you nor your colleague be available for a filmed interview tomorrow then we are content with a statement for the film as we had last week. As things stand, you yourself will be on the sofa on wednesday and able to reflect the Post Office's position.

Regards

Ingrid

On 14 Dec 2014, at 10:28, "Mark R Davies"

GRO wrote:

Hi Ingrid

It isn't about your schedule disappointing us at all, it is about our reasonable offer, repeated again here, to provide an interview for your programme and your reluctance to accommodate us in a reasonable timescale.

It is a little baffling that you are not prepared to allow us reasonable time to respond with an interview. While I appreciate the demands of filming, editing and clearing at your end, we are able to offer an interview for your programme a full 24 hours before you broadcast. That seems

eminently reasonable to me and I am sure it is logistically achievable.

Without Post Office input by interview into the film and the opportunity to respond to the detailed points and allegations made it will clearly be impossible, as Nick has accepted, to respond fully in the studio in a two or three minute slot. I do not think in those circumstances we could appear in the studio: the film will be very skewed without our voice in it.

Given the work my colleague must undertake on behalf of the Scheme and applicants this week, I will have to check with her, but I think it might be possible to conduct an interview in the late afternoon on Tuesday.

I think she will be out of London but I am sure this can be overcome. Do let me know what time would be suitable and I will confirm a location.

Best wishes
Mark
Mark Davies
Communications and Corporate
Affairs Director
Mobile: GRO

Sent from my iPhone
On 13 Dec 2014, at 17:40, "Ingrid
Kelly" GRO
wrote:

Hi Mark,

I'm sorry if our

schedule disappoints
and inconveniences
you or the post office
but we won't be
postponing. You
have the allegations
and our schedule. You
can respond within the
film by a statement if
no one appropriate is
available for interview
on monday - and of
course you yourself
will be responding on
the sofa after the item
airs.

Regards

Ingrid
On 13 Dec 2014, at
17:07, "Mark R
Davies"

GRO
GRO wrote:

Hi Ingrid
That is
very
disappoin
ting. To
stress we
would
like to
offer a
spokespe
rson for
your
program
me's pre-
recorded
film and
are able
to but not
in the
timetable
you
suggest.

Our
position
is very

reasonable.
I assume
the
programme
will
return
after
Christmas.
What is
the
urgent
reason
for being
unable to
give us
the time
we need?

You plan
to make a
series of
complex
and very
serious
allegations
about
Post
Office
Ltd, all of
which can
be
answered
in detail.
I do not
understand
why
your
timescales
are such
that you
cannot
accommodate an
interview
for a film
24 hours
before
broadcast.
You are
asking for
48 hours

for your
own
internal
processes

.

Nick has
himself
suggested
that a
sofa slot
would
not really
give us
the
opportuni
ty to
answer
the very
complex
range of
allegation
s he is
making.
We agree
and
clearly
would be
unable to
take part
in the
studio if
our
position
is not
reflected
in the pre-
recorded
film.

It cannot
be fair to
feature a
series of
other
interview
s in the
film, all
of which
were
presumab
ly filmed

last week
in good
time for
your
deadlines,
without
giving
Post
Office,
which is
very firm
in its
position,
the
opportuni
ty to
respond.
There are
two sides
to every
story, as
you
know.

I would
like to
ask you
to
reconside
r your
position
please.

Best
wishes
Mark
Mark
Davies
Communi
cations
and
Corporat
e Affairs
Director
Mobile:

GRO

Sent from
my
iPhone
On 13

Dec
2014, at
12:24,
"Ingrid
Kelly"

GRO

wrote:

I'm afraid not. The programme is off air for a fortnight and will run on weds. If you really can't do an pre recorded interview on monday then as you'll be on the sofa on weds, you'll be able to respond then.

Regards

Ingrid

On 13 Dec 2014, at 12:15, "Mark R Davies"

GRO

wrote:

Hi Ingrid

Many thanks for this.

In that case please can I formally request that the item is held until it is possible for the Post Office to respond on film? There is no urgency or need to broadcast this item on Wednesday, especially as the Mediation Scheme is continuing. Due to pressing and competing business priorities related to the mediation scheme and involving applicants to it, we cannot provide suitable representation until late Tuesday afternoon at the earliest.

I appreciate your own legal and other processes - you will appreciate our own.

I am formally offering you this interview with a senior manager who leads on the issues you are discussing and think it is reasonable for the Post Office to have the opportunity to put forward its position in a reasonable timescale.

We also stand ready to put a spokesperson up live in the studio.

Best wishes

Mark

Mark Davies
Communications and Corporate Affairs Director
Mobile: [GRO]

Sent from my iPhone
On 13 Dec 2014, at 09:48, "Ingrid Kelly"
[GRO] wrote:

Hi Mark,
I'm afraid the practicalities mean a filmed interview wd need to be done on monday to be incorporated into the piece. The lawyers and editorial advisory teams all need to take their time checking the Item so it's a rather cumbersome process. The interview can be as early or as late as suits but it does need to be monday i'm afraid.

best

ingrid
On 13 Dec 2014, at 09:29, "Mark R Davies"
[GRO] wrote:

Hi Nick

Many thanks for your email.

As you will appreciate you have raised a broad range of issues which range across legal, IT and network support. We are very keen to be able to respond to all these issues in detail, particularly as there are some really fundamental points raised in your questions.

To that end we are working to ensure that we can provide you with the best possible response. As mentioned in my previous email, as well as input from the suppliers of our IT system and a legal view on the serious points you raise, we need (and I think this is reasonable) to provide you with a spokesperson who can speak across this range of issues.

We are dealing however on Monday and Tuesday with mediation scheme matters which relate to applicants. So we can absolutely be available later on Tuesday or on Wednesday morning.

I do appreciate the challenges you have around filming and editing of course but I am sure you will appreciate the challenges from our side as well.

I suggest we speak first thing Monday morning and hopefully you will be able to come back to me on the timescale above and I will be able to update you too on where we are - please be assured we will do everything we can to ensure we give you the opportunity to interview the Post Office on these important matters.

Best wishes

Mark

Mark Davies
Communications and Corporate
Affairs Director
Mobile: [GRO]

Sent from my iPhone
On 12 Dec 2014, at 20:43, "Nick
Wallis" [GRO]
wrote:

Hi Mark

Thanks for your email. I am delighted you are inclined to offer studio live *and* pre-recorded filmed interviews.

As Ingrid (cc'd) has confirmed the planned transmission date for both would be Wed 17 Dec, to coincide with the planned Westminster Hall adjournment debate on the Post Office called by James Arbuthnot MP.

As Jane (cc'd) explained to you on the phone and as I am sure you understand, we need to set a time for the pre-recorded interview well in advance of the planned transmission date as the interview will have to be edited and go through all the usual processes before being delivered to the One Show for broadcast. It is in no one's interest to rush this.

As Ingrid may have mentioned (and I defer to her on exactly how things may be happening on Wednesday), any studio guest you nominate will most likely be allotted around three minutes interview time, but with Victoria Wood, Michael Ball, a children's choir already booked on Wednesday and the unpredictability of a live studio environment, the interview might get curtailed, or the discussion itself might veer off topic, despite everyone's best efforts.

Could I therefore urge you to fix up a date and time as soon as possible to film a pre-recorded interview where we can ask you, and give you the opportunity to answer, a series of questions on the subjects raised below in a calm and controlled environment.

The interview will, of course, be edited, but we will be scrupulous in our duty of fairness towards the interviewee and the answers they give. Furthermore, whether either,

both or no proposed interviews end up being broadcast, we will be taking all reasonable steps to ensure the Post Office's perspective on the serious matters below is properly represented.

I hope all that makes sense. Just to ensure you are clear on the internal division of labour surrounding the two proposed interview opportunities, Ingrid will deal with you re the arrangements re the possible live interview on the One Show sofa, whilst Jane and I can work with you to arrange a pre-recorded interview at a location of your convenience.

I hope to hear from you soon re a proposed pre-recorded interview location/date/time and interviewee. I am happy to liaise with you over the weekend to book it in in good time.

Yours,

Nick

From: Mark R Davies

GRO

Sent: 12 December 2014 18:47

To: Ingrid Kelly

Cc: Jane French; Nick Wallis; Melanie Corfield; Ruth X Barker

Subject: Re: Post Office interview

Ah - thanks Ingrid. That does give us more time. Many thanks for clarifying.

Best wishes

Mark

Mark Davies

Communications and
Corporate Affairs Director

Mobile: GRO

Sent from my iPhone

On 12 Dec 2014, at 18:34,

"Ingrid Kelly"

GRO

wrote:

No Mark that's my
mistake in the
voicemail. as per my
text - it is weds!
Apologies all. Ingrid
On 12 Dec 2014, at
18:32, "Mark R
Davies"

GRO

GRO wrote:

Dear Jane,

Thank you for
your time today.
Just to follow up
my previous
email, I can
confirm that the
Post Office
would welcome
the opportunity
to respond in
your film and in
the studio to the
very serious and
detailed
allegations being
made in the email
we received from
Nick Wallis
(copied below
for ease of
reference).

I understand
from Ingrid Kelly
that you are now
planning to air
this item on
Monday evening.
This comes as a
surprise as you
indicated
Tuesday or
Wednesday when
we spoke earlier.

Either way, given

the very serious nature of the allegations being made, and the requirement to give us reasonable time to respond, we do not believe we can meet your deadline of noon on Monday for an interview to be conducted.

We are inclined to offer an interview but our spokesperson, who is leading the investigations process on the matters you reference, is involved in mediation scheme work on Monday and Tuesday. I am sure you will recognise that this work, which involves scheme applicants, is very important.

She could be available later in the week and as she is best placed to speak for the business on the complex range of issues you have raised, I believe it is reasonable to ask you to hold off on broadcasting your item until

such time as we are able to respond properly.

Moreover, our spokesperson is able to respond to the specific issues you raise in a way no other colleague in our business can given her role and first hand knowledge of the specifics Nick has referred to. I would also stress again, however, that Post Office cannot comment on individual cases.

The Ofcom guidelines on matters like this make clear that we should be given reasonable time to consider and make our response to requests such as this. What constitutes a reasonable time must surely take the urgency of a situation into account. There is no urgency here, especially in the light of your broadcast last week and the ongoing nature of the mediation scheme, not to mention the point I raised on the

phone about
potential
compromise of
cases going
through the
scheme. Given
that the
programme is
broadcast every
evening it seems
reasonable to me
to ask for the
timescales to be
extended so that
we can respond
properly.

I look forward to
hearing from
you. I am also
copying this to
Ingrid Kelly who
kindly left me a
voicemail this
afternoon
confirming that
we could indeed
have a slot in the
studio to answer
questions on
your film. I also
copy Nick
Wallis, and Mel
Corfield and
Ruth Barker
from the Post
Office press
office.

I am happy to
discuss this over
the weekend.

Best wishes

Mark

Mark Davies
Communications
and Corporate
Affairs Director
Mobile: GRO

GRO

From: Nick
Wallis

GRO

Sent: 12
December 2014

11:53

To: Melanie

Corfield

Subject:

Interview request

Dear Melanie,

1) Thank you for
your help with
The One Show
item transmitted
on Tuesday
9th December.

We are now
preparing a
second film
which is due to
go out on The
One Show on
BBC1 at around
the same time
next week. We
would be most
grateful if the
Post Office
would be
prepared to offer
an interview
expressing its
point of view in
the continuing
dispute with
some
Subpostmasters
over Horizon and
associated issues.
This would need
to be recorded
by noon on
Monday but we
would be able to
meet you at your
location of

choice and we
can do it over the
weekend if that is
the only option.

2) The film we
are broadcasting
once again refers
to concerns over
Horizon. This
time it features
the story of
Steve Phillips
from Nelson in
South Wales
who is having
problems with
the system, as
well as
interviews from a
group of former
subpostmasters
including Noel
Thomas, Jo
Hamilton, Julian
Wilson, who say
they felt under
pressure to sign
off incorrect
accounts even
though they did
not understand
how sums could
be missing.

Mr Phillips says
he and other
Subpostmasters
live in fear of
being told to pay
back losses
neither you or
they can explain,
and he adds that
he and other
Subpostmasters
do not trust
Horizon. This
latter point of
trust in Horizon
by
Subpostmasters

is one which has
come up many
times with other
former
Subpostmasters
we have spoken
to.

3) In our film
former
Postmasters say
it is difficult to
investigate the
causes of
shortfalls for
which they are
held liable,
because of the
way Horizon and
associated POL
processes and
policy function.
They say in order
to open for
business the day
after the close of
a trading period
they had to agree
to pay back
alleged shortfalls
(either by settling
to cash or
settling centrally,
which implies
payment later).
They say this put
them in a very
difficult position.

4) We ask one
former
Subpostmaster
why she pleaded
guilty to false
accounting in
court when she
believed herself
to be innocent.
She tell us she
felt she couldn't
defend herself
because she

didn't have proper records, that the Post Office had taken some potentially useful items and paperwork away during their investigation and she felt she would be prosecuted for theft as well as false accounting if she had not pleaded guilty to the latter.

5) We understand from the Subpostmaster contract and from speaking to former Subpostmasters who have been through the process that Subpostmasters are not allowed a legal representative when they are interviewed under caution by Post Office investigators. Instead they are allowed one companion who must be a Post Office employee, who is not allowed to speak. Does this still happen? If so, why does the Post Office think it is fair? Also, we are aware that Post Office

conducts PACE
interviews at
which
Subpostmasters
are allowed legal
representation.
Could you
explain in what
circumstances
you think it
appropriate to
interview
someone under
caution but with
legal
representation,
and why this is
not available to
Subpostmasters
in the interviews
which usually
precede them?

6) We would
also like to put to
you some
opinion about the
Post Office's
approach to
investigating and
prosecuting
subpostmasters.
We are in
possession of
expert opinion
from a professor
in criminal justice
which implies the
Post Office's
dual function as
investigator and
prosecutor, and
its 300 year
cultural history
of using it
against its agents
is unique. That's
not to say he
thinks you are
the only
organisation with
prosecuting

powers, but that you have a unique culture of prosecuting your agents. He implies this approach lacks the checks and balances of a typical prosecution by the CPS. In his opinion this creates a situation where miscarriages of justice are more likely to occur.

The Post Office has assured us in a Freedom of Information Act request that it uses the Crown Code for Prosecutors. Can you please explain how this code was applied in the following cases: Jackie McDonald, Damian Owen and Tom Brown. In these cases the Post Office pursued its own prosecution despite no prosecution having been brought by the CPS after police investigations. If you are unable to comment on individual cases, please comment on cases like this in general.

7) There is also a point raised by Geoffrey Sturges, a business contract expert. He believes Subpostmasters should be told about the history of known problems with Horizon (such as the Calender Square issue and others raised in Second Sight's Interim Report) which have led to shortfalls in Subpostmaster accounts and the history of other allegations against Horizon before they are allowed to sign the Subpostmaster contract.

8) We will also include opinion from Sandip Patel QC who specialises in areas including business fraud and cyber crime. He will say he believes that innocent people might have been wrongly convicted. He will also say there may be grounds for arguing that the Horizon system (incorporating

the business processes around it) is not as reliable as the Post Office believed it to be. He goes on to say that if the PO had failed to carry out a proper inquiry in circumstances when they should have, then some of the convictions of some of the Postmasters in the mediation scheme might be unsafe.

9) With more than a hundred MPs now saying they have no confidence in the mediation scheme we would like to ask the Post Office what it thinks is the correct way to move forward and find an equitable resolution to the concerns of subPostmasters up and down the country.

10) In summary, we have found a number of experts in their field who have concerns about the Horizon system, the PO's investigations and prosecutions

function and the fairness of the Subpostmaster contract. It suggests there is the possibility that the way the Post Office goes about its business or did go about its business needs some proper explanation. One MP described the nature of the relationship between the Post Office and SPMRs as “feudal”, yet you call them your “life blood”.

The content of the proposed programme is not set in stone. This is an opportunity for the Post Office to respond to the widespread criticism it is currently facing. I am seeking a senior member of staff from the Post Office who can explain everything from the Post Office’s perspective so that we can get to the bottom of what has happened to these people. If you will not appear on camera then we ask that you provide a

substantive
response to the
issues raised
above by noon
this
coming Monday
15 Dec.

Thank you

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