



UK Government Investments

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Sarah Munby
Permanent Secretary
Department for Business, Energy & Industrial Strategy

09 August 2022

Dear Sarah,

I am writing to you in my capacity as Accounting Officer for UKGI to express my concerns about UKGI's role in the quantification and payment of compensation for Overturned Historical Convictions (OHC). I am particularly concerned about the risk that BEIS' Post Office Overturned Historical Convictions Committee (BEIS POHC) will place reliance on the UKGI team and its litigation expertise in making complex judgment calls and decisions.

As we have discussed previously, unlike the Historical Shortfall Scheme, where an Independent Panel is responsible for the initial settlement recommendations, and their basis, the decision-making in relation to OHC claims falls to Post Office and BEIS. Approval from BEIS POHC forms part of the governance arrangements before payments can be made by Post Office.

UKGI does not make, or advise BEIS on the basis for making, decisions in relation to the OHC claims or provide assurance in relation to those decisions, but rather supports BEIS in constructively challenging POL on the quality of its output. These arrangements are set out in more detail in the Terms of Reference for BEIS POHC.

As you are aware, one of HMT's requirements for funding for the OHC is that BEIS seeks external assurance to inform its decision-making over and above the comfort derived from POL's legal advisor, Herbert Smith Freehills. BEIS POHC has the ability to reach out to external Counsel e.g., Tolley QC, Eadie QC to receive formal legal assurance where it deems it necessary, in practice, it has not been, and it will not be, always practically possible to commission a barrister to advise BEIS POHC in relation to elements of, and decisions to be made in, the OHC.

UKGI has flagged that it cannot provide legal assurance/comfort to BEIS POHC within the parameters of its mandate and has suggested that BEIS POHC instruct a senior litigator to help it navigate complex decision making. We understand that BEIS POHC will not be able to do so due to budgetary constraints and remains comfortable to remain without this additional support. Please can I ask that you acknowledge this letter in writing and confirm that you understand the limitations of the UKGI role in this context i.e., that UKGI is not providing legal assurance or comfort to BEIS POHC in relation to the assessment of OHC claims, that the arrangements for BEIS POHC to receive that assurance remain adequate and UKGI is not being asked to go beyond its constructive challenge shareholder role in this context.

Yours sincerely,

GRO

Charles Donald
Chief Executive Officer, UK Government Investments Limited

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Its registered office is at 27-28 Eastcastle Street, London W1W 8DH.