
From: Ben Beabey [GRO]
Sent: Mon 14/01/2019 12:43:46 PM (UTC)
To: Martin Smith [GRO]
Cc: Andy Cash [GRO], Ben Beabey [GRO], Karima Karger [GRO]
Subject: RE: Strictly confidential - Post Office workshop 7 March

Dear Martin

Thanks. This esrf is approved. Note however, the workshop is proceeding on 7 March (not 7 Feb);

Again, I am copying this to Karima: I have set up a specific entry in Tracker for it: 2019-00899

As with the other matter, I suggest that this time is billed against the existing PON for strategic criminal law advice :
PON : 6500024824

Thanks

Ben



Ben Beabey
Senior Legal Counsel, Dispute Resolution and Brand

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M: [GRO]

From: Martin Smith [GRO]
Sent: 11 January 2019 12:45
To: Ben Beabey [GRO]
Cc: Andy Cash [GRO]
Subject: RE: Strictly confidential - Post Office prosecutions

Dear Ben,

Thank you for your email.

Please find set out below an eSRF for the anticipated work involved in considering and preparing a working discussion document and leading a workshop in Chesterfield on 7th February 2019.

I have allowed a budget of 15 hours for this work.

Kind regards,

Martin Smith.

eSRF – POL Legal												
Fields shaded blue should be completed by a <u>firm</u> , fields shaded green should be completed by <u>POL</u> and fields shaded red should be completed by <u>POL legal</u> .												
1. Firm	Is this a new SRF or is a change being sought? (If a change, add to the scope in box 6 – highlight the text):	This is a new eSRF										
2. Firm	Matter description (brief):	To consider issues relating the investigation and potential prosecution of offences by Post Office Ltd, to prepare a working discussion document and prepare for and lead a workshop in Chesterfield on 7 th February 2019.										
3. Firm	Total Fees Quote (incl VAT and whether <i>fixed</i> – a fixed charge irrespective of the spend; <i>capped</i> – means maximum charge up to the cap, depending on hours spend, cap not to be exceeded; or <i>variable</i>):	£ 2,625 plus VAT variable i.e. £3150 variable										
4. Firm	Initial Work Description & Work Plan (use stages when appropriate):	This eSRF will cover the following work:-										
5. Firm	Detailed Fees Breakdown (including any anticipated disbursements and expenses) regarding Initial Work and Charges (as appropriate):	Stage 1 <table border="1"> <thead> <tr> <th>Level of fee earner(s)</th> <th>Anticipated number of hours</th> <th>Hourly rate</th> </tr> </thead> <tbody> <tr> <td>Senior Solicitor</td> <td>15</td> <td>£175</td> </tr> <tr> <td></td> <td></td> <td></td> </tr> </tbody> </table>		Level of fee earner(s)	Anticipated number of hours	Hourly rate	Senior Solicitor	15	£175			
Level of fee earner(s)	Anticipated number of hours	Hourly rate										
Senior Solicitor	15	£175										
6. Firm	Law Firm – Main Contact for this matter:	Martin Smith										
7. Firm	Panel Firm Partner Contact:	Andy Cash										
8. Firm	Panel Firm Case Reference:											

9. Firm	Instruction/Change Date:	10 th January 2019
10.POL	Please indicate whether this is a project:	
11.POL	If a project, please provide the PO Number (PON), if PON not yet available please inform us when it is, and in the meantime supply CC and GL Number (which we will use to pay invoices in the interim):	
12.POL legal	If not a project, which legal BAU budget is to be used?*	
13.POL legal	POL Legal Contact:	
14.POL legal	POL Business Contacts:	
15.POL legal	POL Legal Ref:	
16. Firm	Signed by Law Firm Partner (& date)	11/1/19
17.POL legal	Signed by POL Head of Legal (& date)	

Martin Smith

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Tel:

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From: Ben Beabey [GRO]
Sent: 02 January 2019 15:54
To: Martin Smith; Ben Beabey; Rodric Williams
Subject: FW: Strictly confidential - Post Office prosecutions

STRICTLY CONFIDENTIAL – LEGAL PRIVILEGE – DO NOT SHARE/FORWARD

Dear Martin

Happy New Year.

I spoke with Rod today and we'd like you to begin some work/thinking about the prospect of Post Office re-starting its role in prosecuting criminal cases against Postmasters suspected of criminal wrongdoing in the network. We'd then like you to work up a discussion note and agenda for a workshop on prosecutions to be attended by key stakeholders in Post Office. The background and what we'd like from you is this:

1. We are aiming at hosting an internal Post Office workshop to consider criminal prosecutions. This would be attended by the likes of: Mark Raymond; John Breedon; Julie Thomas; representatives from Finance and from the agent debt team; Rod; me. The idea being this workshop would allow a more structured discussion around the prosecution process; the present "case book"; the merits of prosecuting cases ourselves rather than the CPS; the financial implications (recovery and costs) of prosecutions; how to improve the cross over and working relationship between the contract managers/the agent debt team and security and so on.
2. We'd like to have such a workshop in February. As you may be aware, in the Group Litigation, we expect there to be a trial dealing with the reliability of the Horizon system in March and thereafter a judgment on Horizon – that could be the trigger moment for Post Office to reconsider bringing its own criminal prosecutions – including those based around Horizon data - but the business wants to have begun the thinking around that prospect now rather than simply when the Horizon judgment materialises.
3. We'd like you to provide the lead in such a workshop (obviously with guidance from Rod and me) including providing Rod and me with a discussion document and an agenda and topics for discussion well in advance so that those attending (from both the contract and the security sides) can gather together current data as required. We'd also like to explore the business's experience of the recent freeze on pursuing prosecutions and to what extent that has caused increased financial losses and to what extent a policy of recommencing prosecutions would/could stem such increased losses.
4. The sorts of issues we think it would help to cover would include:
 - What the Post Office investigation process involves – including the best way to manage the cross over between agent debt/contract managers and security so that the integrity of any possible criminal process is maintained – this is something you flagged in your work on the Policies.
 - What improvements you can suggest to improve that process – what can be done to improve coordination between those stakeholders - what technology can help - how best to ensure the proper management of regular case meetings involving all stakeholders to improve and coordinate the process from the beginning.
 - In an ideal world, what would the best process involve structurally as criminal investigations develop: what information from the network is of most use? What financial information? How should PACE interviews be managed? How would you recommend the structure around criminal investigations and prosecutions drawing on your knowledge of Post Office and its internal structures.
 - Note: there is not at the moment any intention to bring back a dedicated in-house criminal lawyer into Post Office, so we would be interested to know your thoughts on resource and the best ways to manage a more coordinated approach to contract breach/civil recovery/criminal prosecutions.

- Below and attached is where we got to with your previous work on amending up the various internal Post Office Policies; this work remains up in the air and so that would have to be resolved too by way of formal sign offs – and further discussion on the overlap point between civil and criminal process.
5. Another important - and distinct point – concerns the **Expert Reports** recently served by both sides in the Group Litigation **concerning the Horizon system**. Rod wants you to review these reports (they are both lengthy) for you to advise Post Office on two issues (or others that may arise in your view):
- Does the content of either/both these Expert Reports now engage Post Office's continuing duty to disclose to the accused / defendants any relevant material so far as existing / previous / historic criminal prosecutions brought by Royal Mail/Post Office are concerned?
 - In terms of the potential for future prosecutions, how would these Reports be deployed/disclosed?

I shall ask Rod for copies of both Expert Reports for you to carry out that distinct advice exercise for him.

6. In terms of costs and fees, shall we take this process in steps: what would you anticipate by way of legal budget to cover your time in thinking over these issues and drafting up a note by way of working discussion document and agenda ahead of such a February workshop? Separately, there will be costs incurred in your review of the Expert Reports and advising on duties of disclosure arising; could you also estimate the costs of attending the workshop itself (I am not sure if that would be in London or in Chesterfield). I can then approve those anticipated costs. Rod tells me however there is already a PON set up to cover those costs under the PON 6500024824.
7. Shall we have a quick word on the telephone at your convenience? We'd want to start thinking about dates in February for the workshop just as soon as possible.

Best regards

Ben



Ben Beabey
Senior Legal Counsel, Dispute Resolution and Brand

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M: GRO

From: Ben Beabey

Sent: 18 October 2018 12:06

To: Jane MacLeod <GRO>

Cc: Rodric Williams <[REDACTED]> GRO; Martin Smith <[REDACTED]> GRO; Simon Clarke <[REDACTED]> GRO; Ben Beabey <[REDACTED]> GRO
Subject: FW: Prosecution Policy review - legal privilege - strictly confidential

STRICTLY CONFIDENTIAL – LEGAL PRIVILEGE – DO NOT SHARE/FORWARD

Dear Jane

I have spoken this morning to Martin at CartwrightKing and their best estimation at this point is that the investigation stage (in *Swanton*) may conclude and move to an advice/decision stage (for you), sometime around the first couple of weeks of November.

With that timeframe in mind:

1. You will recall that you previously spotted that the relevant policy when Mark comes to you for a prosecution decision, the Prosecution Policy, was in need of formal review.
2. Below is my email of last month and attachments. CartwrightKing were instructed to review the Prosecution Policy and its related policies. These attachments include an advice note and all the related the policies under review marked up with recommendations and amendments from CartwrightKing.
3. The more timely issue: your review/approval of the suggested CartwrightKing amendments to the Prosecution Policy ahead of Mark seeking any charging decision from you.
4. Other matters:
 - 4.1 The Conduct of Criminal Investigation Policy – there are recommendations from CartwrightKing for amendment in the attached version of this policy. I suggest you deal with this policy in tandem with the Prosecution Policy review as well given the direct correlation and cross-reference.
 - 4.2 The Contract Breach Policy – this too as attached includes recommended amendments from CartwrightKing. However, the consensus view from John Breedon and Nick Beal was a preference to leave any amendment to this policy until the outcome of the November group trial is known; see my email to you of 24.09.18. CartwrightKing have made the point about reviewing all the policies in a coherent way with as short delay as possible, but I can also understand John's point when it comes to the Contract Breach policy. Angela Van-Den-Bogerd has a copy of CartwrightKing's advice note and the Contract Breach Policy showing their recommendations.
 - 4.3 Making these policies more generally publicly available: see my email to you of 17.09.18 which attached a short advice note from CartwrightKing including on this point: They advise inter alia: *There is no requirement in law that you publish your policy and internal guidance documents to the wider world.* You will see in my email below both Mark and John are not in favour of making these policies generally available to the public.

Timing: As I say, CartwrightKing think it unlikely that they and Mark will be ready to present matters to you for any charging decision until the beginning of November. It makes sense however for you to have reviewed the relevant Policies (in particular the Prosecution Policy) and their recommended Policy amendments before then, so that any decision is taken by you according to the updated policy.

I am away on leave next week; if you are looking at this matter next week and should you have any immediate queries about their recommendations to the Policy documents, I am copying this email to Simon and Martin at CartwrightKing (as well as Rod) so they are aware of the status of this process.

Kind regards

Ben



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M: GRO

From: Ben Beabey
Sent: 14 September 2018 12:41
To: Jane MacLeod <GRO>; Rodric Williams <GRO>
Cc: Ben Beabey <GRO>
Subject: Prosecution Policy review - legal privilege - strictly confidential

STRICTLY CONFIDENTIAL – LEGAL PRIVILEGE – DO NOT SHARE/FORWARD

Dear Jane (cc Rod)

Due to ongoing criminal investigation matters, you may recall you spotted that the Prosecution Policy had gone beyond its due date for a review. We asked CartwrightKing to review that Policy and the related policies to which it refers. We are now ready to put their recommendations to you.

(A) Attached are the following documents showing review comments in track changes (you may need to read them in “enable edit” mode and then view all track changes) from CartwrightKing. I will send the password separately. I have been considering these draft amendments with Mark Raymond, John Breedon (and Nick Beal) and I know Rod is looking at them too:

1. Note of Advice from CartwrightKing and copy of Code C
2. Prosecution Policy
3. Conduct of Criminal Investigations Policy
4. Contract Breach Policy

Each of the Policies includes as track changes the recommended amendments/updates.

(B) You will be pleased to know that **there are no significant changes recommended**; most changes are to update

and create more consistency. The **Note of Advice** explains their approach and I suggest you start your reading there. There are two points to note in particular:

- The Prosecution Policy now has expanded commentary on the various factors to take into account when making a prosecution decision found in para 6.3 - obviously you will want to be happy with how they are directing the thought processes.
- The Contract Breach Policy now expressly includes a staging point as to moving across away from the Breach policy and into the Criminal Investigations Policy when suspicions of criminal conduct arise and there should be no Reasons to Urge/Informal Discussions at that point (to preserve the process ongoing according to PACE).

(c) The Contract Breach Policy – postpone review for another day

The Contract Breach Policy came within the review remit because it is cross-referred to in the criminal policies. The main point of recommendation from CartwrightKing is to introduce a much stronger delineation between when investigations are civil/contractual in nature and when they should pass across to be conducted under the Criminal Investigations Policy and the knock on effects of that.

From my exchanges with John Breedon and with Nick Beal, it seems to me that any review of this particular Policy ought best be put on hold. They have expressed concerns as to how any review now would dovetail into ongoing work looking at this Policy in the context of (i) the group litigation outcome (ii) remuneration for suspended postmasters and how such issues would work through.

My recommendation then is that you only need concern yourself at present with reviewing the amendments/suggestions from CartwrightKing on the (i) Conduct of Criminal Investigation Policy and (ii) the Prosecution Policy.

I am checking this point with CartwrightKing.

(D) Mark Raymond's position on the criminal policies.

Mark has seen the amendments proposed by CartwrightKing. So far as (i) the Criminal Investigations Policy and (ii) the Prosecution Policy are concerned, Mark says this: *As you say there are no significant changes and all seems fine to me.*

Mark (like John) did have further comments on the practicalities of the cross over from a civil into a criminal investigation, but, as above, I think that issue can be put to one side temporarily and you need not now look at the Contract Breach policy.

(D) Outstanding issue – public availability of the policies:

- At the moment, I understand these Policies are not generally available to the public/employees, for example, on the Post Office website. There may be rights of access under Freedom of Information legislation and in individual cases, but the question arises as to whether (a) is there any legal obligation or merit or (b) is it entirely a Post Office management discretion whether or not to have them made available online?

In answer to this:

Mark says: *The first issue of making these documents publically available website or otherwise: I would be very much in favour of making them available only when required to do so, such as disclosure during criminal proceedings to defence ,etc.*

John says: *In respect of your question regarding making the policy document publically available, firstly do we have to consider which security marking the documents should hold and then decide where to go. I agree with Marks comments that I don't think these should be available on the website.*

CartwrightKing say: I spoke with CartwrightKing who indicated that there was no legal obligation to make these documents generally publicly available; obviously they would have to be shared with the subject of investigations if demanded at the relevant time. Rather, it is more a matter of discretion for Post Office to decide whether or not they should be available to the public, say on the website. I have asked them to confirm this by email.

(E) Next steps:

- 1) There are a couple of typos to correct in the drafts.
- 2) Postpone review of the Contract Breach Policy to dovetail with other related work ongoing due to the group litigation.
- 3) CartwrightKing to confirm (a) their advice on making the policies publicly available (or not) and (b) that we can now put to one side any review of the Contract Breach Policy.
- 4) I think (although it is not altogether clear to me) that it would fall to you to approve any recommendations flowing from this legal review of (i) the Prosecution Policy and (ii) the Conduct of Criminal Investigation Policy and the changes could then be incorporated into the current version of the Policies.
- 5) Assuming you agree the recommended amendments, any more immediate decisions coming up that will be made by you under the Prosecution Policy would then be made according to an up to date and reviewed Policy. Mark will be able to update you on the timing of when he will be coming to you to consider the next potential charging decision.

I have not copied this to Ben Foat, but will be guided by you/Rod on that.

If you want to discuss and or involve CartwrightKing directly, please let me know.

Best regards

Ben



Ben Beabey
Senior Legal Counsel, Dispute Resolution and Brand

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M: GRO

From: Simon Clarke [GRO]
Sent: 05 September 2018 09:55
To: Ben Beabey <[GRO]>
Subject: Post Office Ltd - 111092

Simon Clarke
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