

Message

From: Wones, Eleri (BEIS) [REDACTED] **GRO**
Sent: 01/04/2021 08:36:41
To: Banda, Tasila - UKGI [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3c83d8eb99ac4d628569ead77edf1156-Banda, Tasi]; Mackie, Robert - UKGI [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=a7c8a5d4aba143a5b02b1c894c3e30e0-Mackie, Rob]
CC: Lambert, Lucie - UKGI [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=653a81d8764d4f72b900a8d3533c535e-Lucie.Lambe]; Scott, Joshua - UKGI [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0224934f23b1444386fd031b130603a8-Scott, Josh]
Subject: RE: Prep for HSF teach in - April 1

Rob,

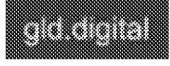
Just a quick email to say that Patrick had no further questions in the end.

I think that the questions/issues that you have already identified are comprehensive. Many thanks for pulling them together.

Regards,

Eleri

Eleri Wones CBE
Senior Lawyer - DD Emeritus
Industry, Investments and Subsidies Team
BEIS Legal Advisers
Government Legal Department
Orchard 3, Lower Ground Floor, 1 Victoria Street, London SW1H 0ET
Tel: [REDACTED] **GRO** / ext. [REDACTED] **GRO**
[REDACTED] **GRO**

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From: Banda, Tasila - UKGI [REDACTED] **GRO**
Sent: 31 March 2021 15:14
To: Mackie, Robert - UKGI [REDACTED]
Cc: Lambert, Lucie - UKGI [REDACTED] **GRO** Scott, Joshua - UKGI [REDACTED] **GRO** Wones, Eleri (BEIS) [REDACTED] **GRO**
Subject: RE: Prep for HSF teach in - April 1

Hi Rob

I have collated the questions for HSF below and have updated the list to reflect Tom's comments. Eleri has not yet heard from Patrick (see below) but, in the interests of time, we should get the below across to POL and can follow up if Patrick adds anything new.

I am on annual leave tomorrow so won't be joining the call. Would you therefore be able to send the below to the relevant person at POL with whom you have arranged the call?

Many thanks

Tasila

- An outline of the history of the prosecutions – we think it would be helpful to be taken through some typical examples which could help us to understand the issues from a malicious prosecution perspective.
- A summary of the Misra case and its importance.
- Explanation of the CCRC's provisional refusal to refer some cases. How many cases does this relate to? How many other cases are there with a similar fact pattern?
- Explanation of the penultimate bullet on slide 2 concerning whether future Crown Court appellants may infer (from decisions taken by POL on its stance to existing appeals) that POL will not oppose their cases on public interest grounds in order to avoid a retrial (which relates to 295 PFAs).
- Discussion of the final bullet on slide 2, to what extent do POL think that claimants will group together and seek litigation funding? What is the impact and significance of this?
- Explanation of how a finding of limb 2 abuse (either on a case-by-case basis or systemically) could impact that individual's malicious prosecution claim.
- To what extent does the 10 December 2020 advice apply to the current 42 appeal cases in the CACD.
- To what extent does POL envisage being able to obtain the relevant information / evidence from members of the Royal Mail Legal Team and POL staff members responsible for administering Horizon? What is the timing for this exercise? What is the impact of being unable to obtain sufficient evidence?
- Broad overview of how damages will be constructed.

Tasila Banda | Legal Counsel (Secondee)

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1 Victoria Street, London, SW1H 0ET

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Follow on 

From: Wones, Eleri (BEIS) 

Sent: 31 March 2021 14:51

To: Banda, Tasila - UKGI 

Subject: RE: Prep for HSF teach in - April 1

Tasila,

I have not heard back from Patrick. I have given him another nudge about this and hope to hear back shortly. If I do not, I suggest you send through the questions you have already and any query that Patrick has can follow.

Regards,

Eleri

Eleri Wones CBE

Senior Lawyer - DD Emeritus

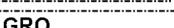
Industry, Investments and Subsidies Team

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From: Banda, Tasila - UKGI [REDACTED] **GRO**
Sent: 31 March 2021 14:43
To: Wones, Eleri (BEIS) [REDACTED] **GRO**; Cooper, Tom - UKGI [REDACTED] **GRO**
Cc: Lambert, Lucie - UKGI [REDACTED] **GRO**; Brooks-White (Jobshare) [REDACTED] **GRO**; Scott, Joshua - UKGI [REDACTED] **GRO**; Mackie, Robert - UKGI [REDACTED] **GRO**
Subject: Re: Prep for HSF teach in - April 1

Hi Eleri - did Patrick have anything to add?

Many thanks

Tasila

Tasila Banda | Legal Counsel (Secondee)

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From: Wones, Eleri (BEIS) [REDACTED] **GRO**
Sent: Tuesday, March 30, 2021 8:44:43 PM
To: Banda, Tasila - UKGI [REDACTED] **GRO**; Cooper, Tom - UKGI [REDACTED] **GRO**
Cc: Lambert, Lucie - UKGI [REDACTED] **GRO**; brooks-white@ [REDACTED] **GRO**; Scott, Joshua - UKGI [REDACTED] **GRO**; Mackie, Robert - UKGI [REDACTED] **GRO**
Subject: RE: Prep for HSF teach in - April 1

Tasila,

I have nothing to add but I am checking with Patrick to see if he has any burning questions. If he does, I will let you have them.

Regards,

Eleri

Eleri Wones CBE
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From: Banda, Tasila - UKGI [REDACTED] **GRO**
Sent: 30 March 2021 20:07
To: Cooper, Tom - UKGI [REDACTED] **GRO** Wones, Eleri (BEIS) [REDACTED] **GRO**
Cc: Lambert, Lucie - UKGI [REDACTED] **GRO** Brooks-White (Jobshare) [REDACTED] **GRO** Scott, Joshua - UKGI [REDACTED] **GRO** Mackie, Robert - UKGI [REDACTED] **GRO**
Subject: Re: Prep for HSF teach in - April 1

Thanks Tom, that's very helpful. We'll add that to the list

Tasila

Tasila Banda | Legal Counsel (Secondee)

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From: Cooper, Tom - UKGI [REDACTED] **GRO**
Sent: Tuesday, March 30, 2021 8:01:06 PM
To: Banda, Tasila - UKGI [REDACTED] **GRO** Wones, Eleri (BEIS) [REDACTED] **GRO**
Cc: Lambert, Lucie - UKGI [REDACTED] **GRO** brooks-white [REDACTED] **GRO** Scott, Joshua - UKGI [REDACTED] **GRO** Mackie, Robert - UKGI [REDACTED] **GRO**
Subject: RE: Prep for HSF teach in - April 1

Tasila

I think it would be worth asking HSF to take you through some of the history of the prosecutions and maybe some typical examples – there was a pattern to many of these cases – which might help the team understand what the issues might be from a malicious prosecution perspective. Also the Misra case because it's so important.

Tom

Tom Cooper
Director
UK Government Investments
1 Victoria Street | London | SW1H 0ET

T: [REDACTED] **GRO**
M: [REDACTED]

E: [REDACTED] GRO
PA: [REDACTED] GRO

From: Banda, Tasila - UKGI [REDACTED] GRO
Sent: 30 March 2021 14:07
To: Wones, Eleri (BEIS) [REDACTED] GRO
Cc: Lambert, Lucie - UKGI [REDACTED] GRO brooks-white [REDACTED] GRO Cooper, Tom - UKGI [REDACTED] GRO
[REDACTED] GRO Scott, Joshua - UKGI [REDACTED] GRO [REDACTED] Mackie, Robert - UKGI [REDACTED] GRO
Subject: RE: Prep for HSF teach in - April 1

All

Following Lucie's discussions with Eleri and Tom, and given that the call on Thursday is intended to operate as a "teach in" we would propose the following questions for POL:

- Explanation of the CCRC's provisional refusal to refer some cases. How many cases does this relate to? How many other cases are there with a similar fact pattern?
- Explanation of the penultimate bullet on slide 2 concerning whether future Crown Court appellants may infer (from decisions taken by POL on its stance to existing appeals) that POL will not oppose their cases on public interest grounds in order to avoid a retrial (which relates to 295 PFAs).
- Discussion of the final bullet on slide 2, to what extent do POL think that claimants will group together and seek litigation funding? What is the impact and significance of this?
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- To what extent does the 10 December 2020 advice apply to the current 42 appeal cases in the CACD.
- To what extent does POL envisage being able to obtain the relevant information / evidence from members of the Royal Mail Legal Team and POL staff members responsible for administering Horizon? What is the timing for this exercise? What is the impact of being unable to obtain sufficient evidence?
- Broad overview of how damages will be constructed.

To the extent that we need further detailed information on any of these issues, we would propose a separate call.

Eleri - in light of your discussion with Lucie, is there anything else you want to add?

Many thanks

Tasila

Tasila Banda | Legal Counsel (Secondee)

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1 Victoria Street, London, SW1H 0ET

E: [REDACTED] GRO

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Follow on 

From: Mackie, Robert - UKGI [REDACTED] GRO
Sent: 26 March 2021 10:21
To: Wones, Eleri (BEIS) [REDACTED] GRO
Cc: Banda, Tasila - UKGI [REDACTED] GRO Lambert, Lucie - UKGI [REDACTED] GRO brooks-

white GRO

Subject: Prep for HSF teach in - April 1

Eleri,

I hope you are well.

We're planning on sending through a list of high level question to HSF/POL ahead of next week's teach-in on criminal convictions. The list below have been crowd sourced from the UKGI team (and based on the slides attached). We're not planning on using the session to discuss settlement strategy post-ruling, rather it's about strengthening our understanding of the assumptions HSF have made so far. We'd welcome any additions from the BEIS team ahead of sending them across on Monday. Lucie and Tasila are going to finalise these into themes so the final form of the list is likely to change but we would welcome any input from you.

Thanks

Rob

Robert Mackie | Executive Director
UK Government Investments

1 Victoria Street, London, SW1H 0ET www.ukgi.org.uk Follow on 

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PA: GRO | T: GRO E: GRO

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- What does "reasonable prospects of successfully defending any malicious prosecutions claims... before circa Sept 2010" mean in practise?
- What is the process for / likelihood of obtaining relevant information re disclosure failings in prosecutions concluding after Sept 2010?
- Re Sept 2010 threshold date, is this a suggestion that the threshold date could move forward or backwards?
- Re timings:
 - when do we expect a) Tranches 1 & 2 to come forward – this summer?
 - What's a realistic timeframe for Tranche 3? What proportion of cases should we expect in next 12, 24, 36 months?
 - For POL to assess quantum, it will need sight of evidence supporting any significant claims for consequential loss. The Letters Before Action may attach supporting evidence but, if not, then if early mediation is agreed it will probably be a longer process allowing for both sides to seek documents. This may influence whether confident and aggressive legal representatives will agree to mediation before the commencement of proceedings. What are your views on this?
- Could you talk through the detailed assumptions and caveats underpinning the provisional model setting out the average claimant's damages?
- We are assuming early settlement whether through negotiation, Part 36 pressure, mediation or some other ADR process is of course desirable if this can sensibly be achieved. The starting point is quantum. Claims will presumably comprise HSS-type shortfall and consequential loss claims plus additional heads based on the failed prosecution- malicious prosecution, wrongful imprisonment, exemplary/aggravated damages and legal costs. The prosecution elements push the anticipated costs higher than the HSS claims and advice is necessary on the likely range of damages under those heads, and the likelihood of exemplary damages, recognising factual differences in the cases. Does this align with your thinking?

- There appears to be a suggestion that some claimants may pursue their prosecution claims separately from their shortfall based claims. We are not sure whether this is a possibility or whether this would enable a Scheme approach to some of these claims. Could you expand on this?
- Interest rate: why 2%? What point have you assumed interest is paid from?
- The claimants and their lawyers may adopt a joint strategy but each claim will be factually different and so conceivably POL could face a number of mediations and legal actions. Reference is made to a GLO. We'd be interested to know the common issues which would be addressed by a GLO before claimants pursue their individual claims. Conceivably some liability and limitation issues, but not all claimants would necessarily face these issues.
- The defence and settlement strategy depends upon both the likely quantum of the prosecution-related damages claims, and the approach/likely strategy of the claimants. Are early signs of this apparent from the LBA which I understand has been received?

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