

STRICTLY CONFIDENTIAL & SUBJECT TO LEGAL PROFESSIONAL PRIVILEGE

Information Sharing Protocol between Post Office Limited, the UK Government Investments, the Secretary of State for Business and Trade and the Chancellor and Under-Treasurer of Her Majesty's Exchequer

BACKGROUND

- A. UK Government Investments ("UKGI"), on behalf of the Secretary of State for Business, and Trade (the "Secretary of State for DBT"), oversees His Majesty's Government's 100% shareholding in Post Office Limited ("POL").
- B. POL was the Defendant in the "Post Office Group Litigation", *Bates & Others v. Post Office Limited*, High Court of Justice, Queen's Bench Division, Claim Nos HQ16X01238, HQ17X02637 and HQ17X04248 which was settled under the terms of a confidential settlement deed dated 10 December 2019 (the "Settlement"). POL is currently implementing the terms of the Settlement including the operation of a scheme to assess historical shortfalls that have arisen in Post Office branches (together with any such work arising directly or indirectly from the Settlement being the "Post-GLO Implementation"). POL is also assisting the Criminal Cases Review Commission investigate a number of cases where former POL postmasters/former employees of postmasters (many of whom were claimants in the group litigation) claim to have been wrongly convicted of a criminal offence prosecuted by POL and a number of these cases have been referred by the Criminal Cases Review Commission to the criminal appellate courts with a number still under investigation ("Conviction Appeals"). Where these convictions are overturned, POL is currently operating a scheme to compensate these individuals ("Overturned Convictions"). The High Court's Horizon Common Issues judgment found that certain aspects of Post Office's contractual provisions were unlawful and that some of its policies breached its duty of good faith. POL subsequently conducted an extensive review of its contracts and policies to identify aspects which could give rise to potential detriment to Postmasters and is now compensating for these ("Postmaster Detriment"). ("Postmaster Detriment" together with the "Post-GLO Implementation", "Conviction Appeals", and "Overturned Convictions", are the "Postmaster Claims").
- C. The Secretary of State for DBT, UKGI and the Chancellor and Under-Treasurer of His Majesty's Exchequer (the "Chancellor of the Exchequer") share with POL a common interest in understanding the matters in issue in the Postmaster Claims, POL's position on them, and the exposures they present to POL's operations, finances and reputation. This common interest is based (among other grounds) on the Secretary of State for DBT's ownership of POL, the investment they make in POL's activities to support the important public and social purpose POL serves, the accountabilities the Secretary of State for DBT/UKGI have for that ownership and investment to Parliament and to the public and the accountabilities the Chancellor of the Exchequer has to Parliament and the public regarding oversight of departmental budgets and expenditure.
- D. Consistent with that common interest, POL wishes to share with representatives of the Secretary of State for DBT, UKGI and the Chancellor of the Exchequer information about

STRICTLY CONFIDENTIAL & SUBJECT TO LEGAL PROFESSIONAL PRIVILEGE

the Postmaster Claims. That information may include material which is confidential and/or covered by legal professional privilege, and it is expressly agreed by the Secretary of State for DBT, UKGI, the Chancellor of the Exchequer and POL that it is in their common interest to maintain any and all such privilege and confidentiality.

- E. This Protocol therefore sets out the basis on which information about the Postmaster Claims will be shared with the Secretary of State for DBT, UKGI and the Chancellor of the Exchequer so as to promote their common interest and preserve privilege and confidentiality.

SHAREHOLDER REPRESENTATIVE

1. The Secretary of State for DBT has appointed a shareholder representative (Ms Lorna Gratton) to POL's Board of Directors who, in their capacity as a director, will receive all information submitted to POL's Board about the Postmaster Claims.
2. The shareholder representative may share all information described in paragraph 1, including legally privileged and confidential information, with the Secretary of State for DBT/UKGI who may in turn wish to share such information with the Chancellor of the Exchequer. Where the shareholder representative shares or proposes to share legally privileged and confidential information, he shall only do so in accordance with the relevant safeguards set out in Appendix A.
3. Transmission of information to the shareholder representative in this manner shall not be deemed to be reporting or notifying any of the matters concerned to the Secretary of State for DBT/UKGI as described in paragraphs 4, 5 and 6.

REPORTING

4. POL shall promptly inform the Secretary of State for DBT/UKGI's nominated representatives (the "Nominated Representatives") of any significant changes associated with the Postmaster Claims, including but not limited to notifying promptly the Secretary of State for DBT/UKGI of any
 - a. potential press coverage of which POL would reasonably be expected to be aware;
 - or
 - b. developments which POL reasonably considers could have a significant reputational impact.
5. The Secretary of State for DBT/UKGI may request through the Nominated Representatives additional written update report in respect of any other specific areas relating to the Postmaster Claims in which it has an interest.
6. The Secretary of State for DBT/UKGI may request information and assistance to enable them to respond to any ad hoc queries made to the Secretary of State for DBT/UKGI about the Postmaster Claims who may in turn wish to share such information with the

STRICTLY CONFIDENTIAL & SUBJECT TO LEGAL PROFESSIONAL PRIVILEGE

Chancellor of the Exchequer. POL agrees to use reasonable endeavours to respond to such ad hoc requests as soon as possible.

APPROVAL PROCEDURES

7. If, in the context of the Postmaster Claims, POL wishes to utilise the approvals procedure set out at Articles 8.2 and 8.3 of POL's Articles of Association dated 1 April 2020 (the "**Articles**"), the Secretary of State for DBT hereby:
- nominates Ms Lorna Gratton and/or Miss Lucie Lambert (or such other individuals as may be notified to POL in writing from time to time) as the person(s) to whom any notice under Article 8.3 (A)(i) must be addressed; and
 - gives consent, as required under Article 8.3 (A)(ii)(c) for any such notice to be delivered by email to the following email addresses (or such other email addresses as may be notified to POL in writing from time to time):

Lucie.Lambert

GRO

Lorna.Gratton

GRO

CONFIDENTIALITY and PRIVILEGE

8. Information shared between POL, the Secretary of State for DBT, UKGI and/or the Chancellor of the Exchequer about the Postmaster Claims is likely to include material which is covered by legal professional privilege or is otherwise confidential. POL, the Secretary of State for DBT, UKGI and the Chancellor of the Exchequer each agree to treat such information so as to promote the preservation of that privilege and/or confidentiality.
9. Legally privileged and confidential information will be marked as such by POL and treated by the Secretary of State for DBT, UKGI, the Chancellor of the Exchequer, their executives, officers, employees and their professional advisors in accordance with the "Obligations in Relation to Legally Privileged and Confidential Information" set out in **Appendix A** to this Protocol.

Dated November 2023

APPENDIX A - OBLIGATIONS IN RELATION TO LEGALLY PRIVILEGED AND CONFIDENTIAL INFORMATION

- 1.1 **“Privileged and Confidential Information”** means any and all legally privileged and other confidential information relating to the Postmaster Claims provided by Post Office Limited (**“POL”**) in any form or by inspection or observation, whether supplied or received before or after the date of this Protocol, and wherever or however stored, compiled or memorialised, together with any copies of and notes made in respect of such information.
- 1.2 **“Purpose”** means understanding the matters in issue in the Postmaster Claims, POL’s position on them, and the exposures they present to POL’s operations, finances and reputation, all of which are of common interest to POL, the Secretary of State for Business, Energy and Industrial Strategy (the **“Secretary of State for DBT”**), UK Government Investments (**“UKGI”**) and the Chancellor and Under-Treasurer of Her Majesty’s Exchequer (the **“Chancellor of the Exchequer”**). This common interest is based (among other grounds) on the Secretary of State for DBT/UKGI’s ownership of POL, the investment they make in POL’s activities to support the important public and social purpose POL serves, the accountabilities the Secretary of State for DBT/UKGI have for that ownership and investment to Parliament and to the public and the accountabilities the Chancellor of the Exchequer has to Parliament and the public regarding oversight of departmental budgets and expenditure.
- 1.3 The Secretary of State for DBT, UKGI and the Chancellor of the Exchequer (each a **“Receiving Party”**) will:
 - 1.3.1 treat and safeguard the Privileged and Confidential Information as private and confidential;
 - 1.3.2 not use or disclose any of the Privileged and Confidential Information for any purposes other than the Purpose;
 - 1.3.3 ensure proper and secure storage of the Privileged and Confidential Information;
 - 1.3.4 handle, preserve and protect such Privileged and Confidential Information using a high degree of care and at least the same degree of care as the Receiving Party affords its own confidential information of like sensitivity and importance; and
 - 1.3.5 permit access to the Privileged and Confidential Information only to such of its executives, officers, employees and professional advisors, and those of the Secretary of State for DBT, UKGI and the Chancellor of the Exchequer (where applicable) (together **“Individual Recipients”**), as reasonably and necessarily require access to the same in respect of the Purpose and then only on condition that each such Individual Recipient is made aware of the privileged nature of the Privileged and Confidential Information and agrees to comply with the obligations imposed on the Receiving Party under this Protocol.
- 1.4 The Receiving Party shall retain up to date records of all Individual Recipients.

- 1.5 The Receiving Party will ensure that such Individual Recipients are aware of the relevant obligations under clause 1.3 of this agreement not to disclose any Privileged and Confidential Information except in accordance with this Protocol.
- 1.6 The Receiving Party shall:
 - 1.6.1 ensure that all its executives, officers, employees and/or professional advisors and those of the Secretary of State for DBT, UKGI and the Chancellor of the Exchequer (where applicable) who work with the Individual Recipients are aware that the Individual Recipients are required to keep the Privileged and Confidential Information confidential and that if such executives, officers, employees and/or professional advisors and/or those of the Secretary of State for DBT, UKGI and the Chancellor of the Exchequer (where applicable) should obtain any Privileged and Confidential Information, that they too shall keep it confidential and keep it secure in the same way as the Receiving Party secures its own confidential information;
 - 1.6.2 promptly and in any event not less than three working days after becoming aware notify POL in writing where any unauthorised use or disclosure of any Privileged and Confidential Information has taken place;
 - 1.6.3 to the extent that any Privileged and Confidential Information is proprietary to any third party other than POL, the Receiving Party shall ensure that all Individual Recipients shall only use such Privileged and Confidential Information for the Purpose unless POL expressly advises otherwise in writing.
- 1.7 These obligations of confidentiality do not apply to any information which in the reasonable opinion of the Receiving Party:
 - 1.7.1 was known to the Receiving Party before the Privileged and Confidential Information was provided or made available by or on behalf of POL and was not held under an obligation of confidence to POL whether directly or indirectly;
 - 1.7.2 is subsequently received from any third party legally in possession of the Privileged and Confidential Information and who was not restricted from disclosing it;
 - 1.7.3 is in or subsequently comes into the public domain (other than by breach by the Receiving Party of its obligations under this Protocol);
 - 1.7.4 is subsequently authorised to be used or disclosed as non-confidential information with the prior written approval of POL;
 - 1.7.5 is independently acquired by an employee, consultant, contractor or professional advisor of the Receiving Party in a manner which does not constitute a breach any obligation of confidence;
 - 1.7.6 is required to be disclosed by applicable law or by any court of competent jurisdiction, the rules and regulations of any body or any enquiry or investigation by any governmental, parliamentary, official or regulatory body which:

- (a) has the power to compel disclosure of the Privileged and Confidential Information from the Receiving Party or any of the Receiving Party's executives, officers, employees and/or professional advisors; or
 - (b) is otherwise lawfully entitled to require any such disclosure,
- subject always to the Receiving Party complying with Clause 1.9; or
- 1.7.7 is requested by supervisory or regulatory authorities, to whose jurisdiction the Receiving Party reasonably believes itself to be subject, in connection with their examination or supervision of the Receiving Party, subject always to the Receiving Party complying with Clause 1.9.
- 1.8 Without prejudice to the generality of Clause 1.7.3, Privileged and Confidential Information will not be deemed to be in the public domain by reason only that it is known to only a few of those people to whom it might be of interest, and a combination of two or more portions of the Privileged and Confidential Information will not be deemed to be in the public domain by reason only of each separate portion being so available.
- 1.9 If the Receiving Party is required pursuant to Clause 1.7.6 or 1.7.7 to disclose any Privileged and Confidential Information, the Receiving Party will: (i) endeavour, to the extent permitted by law, to provide POL with prompt written notice of such requirement so that POL may assert such interest as it has in the Privileged and Confidential Information, and (ii) ask the court or regulatory authority to treat the Privileged and Confidential Information as confidential.
- 1.10 The parties acknowledge that the Freedom of Information Act 2000 ("FOIA") and the Environmental Information Regulations 2004 (SI 2004/3391) ("EIR") potentially apply to Privileged and Confidential Information disclosed by POL to the Secretary of State for DBT, UKGI and/or the Chancellor of the Exchequer. If the Secretary of State for DBT, UKGI and/or the Chancellor of the Exchequer receives a request for the disclosure of information that includes within its scope Privileged and Confidential Information, it shall:
 - 1.10.1 promptly, and in any event within three business days of receipt, inform POL's legal team of the request; and
 - 1.10.2 allow a reasonable period for representations to be made by POL as to whether prejudice to its interests would occur were the Privileged and Confidential Information to be disclosed, provided that POL shall make such representations within 5 business days from the date of the notification by the Secretary of State for DBT, UKGI and/or the Chancellor of the Exchequer.

The Secretary of State for DBT, UKGI and/or the Chancellor of the Exchequer will consider any representations it receives pursuant to Clause 1.10.2 but it retains sole discretion as to whether any Privileged and Confidential Information falls to be disclosed under FOIA or EIR.

END