

STRICTLY PRIVATE & CONFIDENTIAL – SUBJECT TO LEGAL PRIVILEGE

**SPEAKING NOTE FOR POST OFFICE MEETING WITH CRIMINAL CASES
REVIEW COMMISSION – 6 NOVEMBER 2015**

Attendees

Sally Berlin, Casework Director (CCRC)
Frazer Stuart, Legal Advisor (CCRC)
Amanda Pearce, Group Leader (CCRC)

Jane MacLeod, General Counsel (POL)
Rodric Williams, Solicitor, Corporate Services (POL)
Andrew Parsons, Solicitor (Bond Dickinson)

Objectives

1. Ensure that the CCRC can have no complaint about the support being provided by POL.
2. Get an insight into the CCRC's current lines of enquiry.
3. Try to set some parameters around timings.

Topics

1. Documents provided by Post Office to date

1.1 Where available, the following documents have been provided for all 20 cases:

- Mediation Scheme documents
- Hardcopy POL security file (green jackets)
- Hardcopy POL / RM legal file (buff jacket)
- Hardcopy CK file (orange jacket)
- Hardcopy POCA file (red jacket)
- Electronic – RM and POL legal file
- CD / tape recordings (interview recordings)
- CK case reviews

- Total number of docs disclosed: 7,648

1.2 Unless it discovers something new, POL does not expect to be providing any more documents in the above categories.

1.3 Data room

- Is it working for the CCRC?
- Hosting cost to POL so need to keep this under review.

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2. Further documents to be provided

2.1 Save for te

2.2 Civil litigation files

- Issue:
 - o POL is holding various litigation files that were created in around 2011 when POL was threatened with civil legal action by Shoosmiths.
 - o These files may contain some prosecution documents and there are, what appears to be, copies of old prosecution files.
 - o The files may be duplicate material already provided to the CCRC.
- Applicable cases:
 - o Jo Hamilton: 380 docs
 - o Julian Wilson: 1498 docs
 - o Scott Darlington: 726 docs
 - o Seema Misra: 2608 docs
- POL raised this issue with the CCRC in our letter of 2 October 2015 – no response yet.
- Recommended approach:
 - o Provide those files that are obvious copies of prosecution papers – approximately 23 files.
 - o POL to preserve the remaining civil litigation files in case the CCRC needs them at a later date – 9 files.

2.3 Electronic files from CK and POL security

- Volume:
 - o CK: 2,700 documents
 - o POL security: 184,000 documents
- Issue:
 - o Documents are completely unstructured
 - o May contain material related to cases outside the 20 cases under review.
 - o Giving the CCRC unfettered access would be a breach of the DPA unless clearly mandated under a valid s17 request.
- POL raised this issue with the CCRC in our letter of 10 September 2015 – no response yet other than a request to preserve documents.
- Options:

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(1) Provide full access to all documents – not recommended.

- Unhelpful for CCRC
- Risky from a DPA compliance perspective
- *Internal note – risky for POL as no advanced warning of any dangerous material as documents will not be pre-reviewed by Counsel.*

(2) Conduct keyword searches for relevant material. For example:

Keyword	Docs	Docs inc family
Hamilton	6,177	11,318
Jo* w/2 Hamilton	767	905
Josephine Hamilton	572	663
Josephine Hamilton AND between 1 March 2006 (audit) and 30 Nov 2007 (conviction)	31	31

(3) Conduct ad hoc searches for particular documents as required by the CCRC

- *Internal note – preferred option for POL*
- If the CCRC is looking for specific documents or information on particular cases, POL could:
 - o Design bespoke search criteria to find such documents.
 - o Agree that criteria with the CCRC.
 - o Disclose the responsive documents.

3. Other material that POL could provide

3.1 Ask the CCRC - Is there other material that the CCRC would like to see?

3.2 Board reports:

- Most recent board reports are about scheme process, costs and progress or about managing media and political enquiries. These would not be relevant to the CCRC.

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- Details of specific prosecutions are not routinely reported to the board. This is a delegated function with decision making authority resting with the GC / Security team.

3.3 Fujitsu material

- Fujitsu is the IT provider of Horizon.
- A very large volume of material about the operation of Horizon is held by Fujitsu and POL IT.
- This material is probably too vast and technical to be of use to the CCRC, though specific requests for particular information could be made.
- Fujitsu did provide POL with a presentation on the main controls used to ensure that the data in Horizon is accurate. This is more user friendly and could be of use to the CCRC.

3.4 Criminal risk advice following SS' interim report - BAQC

- Key piece of advice was from BAQC - CCRC already has this.
- This was presented to the board on XXX and the board report could be provided to the CCRC.
- Rodric – correct?

3.5 Civil risk advice following commencement of the Scheme

- Given levels of claims that were submitted through the Scheme (£100m but massively over-inflated), POL commissioned Linklaters to provide advice on the risk of civil claims against POL.
- Linklaters found that *"absent proof that Horizon is malfunctioning (either generally or in the specific case) the Post Office has a right to recover losses from SPMRs, the SPMRs have no right to compensation for such losses and the circumstances in which there will be a consequential loss claim are limited to those in which inadequate notice of termination was given."*
- POL therefore commissioned Deloitte to undertake a desktop review of Horizon's assurance regime (essentially reviewing the control documentation produced by Fujitsu and POL) – they found no major concerns but made a few minor recommendations.
- These findings were presented to the POL board on XXX – Rodric?
- These documents could be disclosed but may be of limited relevance given focus on civil liabilities.

3.6 Select Committee

- In February 2014, Post Office appeared by the BIS Select Committee to answer questions about the Scheme and Horizon.
- POL made a written submission to the Select Committee – could be disclosed to the CCRC?

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- Ian Henderson stated at the SC hearing: "*Failures are inevitable with that infrastructure. In general, Horizon has a robust recovery mechanism to cope with those failures.*"

4. Update on mediation scheme

4.1 All investigations completed. SS are no longer engaged and conducting no further work for POL.

4.2 Mediations:

- Now fully underway with dozens having taken place in the last few months and dozens more coming up shortly.
- POL aiming to complete all mediations by the New Year.
- No major compensation pay-outs – a few very minor settlements based on particular circumstances of certain cases (eg. failure by POL to train a particular person, etc)

4.3 POL has still not found any evidence of an error in Horizon and maintains that nearly all problems have been caused by human error by Branch staff.

4.4 Other avenues of enquiry?

- Media interest has largely died down.
- Some MPs still engaged but much lower profile.
- DSARs – process nearly complete and conduct largely without controversy
- Do we mention TP review? – I think not.

5. Update on CCRC progress

5.1 What volumes of documents has the CCRC reviewed?

5.2 What lines of enquiry are being explored?

5.3 How is the CCRC conducting its review?

- All cases in parallel?
- Test cases first?
- Targeting particular issues?

5.4 Does the CCRC still see that there are "*exceptional circumstances*" to warrant its review?

5.5 What output are they expecting?

5.6 When do they expect to reach a conclusion?

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5.7 Can POL do anything to help?

6. Actions

- POL to circulate note of meeting
- Other?