
From: Rod Ismay[/O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=ROD.ISMAYB8406224-7AE7-4FF1-B8E6-F1A8E506F2E5]
Sent: Mon 24/10/2011 3:22:37 PM (UTC)
To: David X Gray; GRO
Subject: FW: JFSA claims - disclosure and evidence gathering
Attachment: Horizon - Sources of documents.doc
Attachment: Walters Evidence Table_ 17 October 2011.DOC
Attachment: Wilson Evidence Table_ 17 October 2011.DOC
Attachment: Darlington Evidence Table_ 10 October 2011.DOC
Attachment: General Documents and Allegations_ 10 October 2011 (2).DOC

From: Emily B Springford

Sent: 20 October 2011 15:51

To: Angela Van-Den-Bogerd; Lesley J Sewell; Mike Granville; Dave Pardoe; Rebekah Mantle; Hugh Flemington; David Simpson; Mike Young; Kevin Gilliland; Susan Crichton; Chris M Day; Sue Huggins; John M Scott

Subject: JFSA claims - disclosure and evidence gathering

Privileged and confidential

Dear all,

As you are aware, POL has received 4 letters of claim from former subpostmasters, making a number of allegations about the training they received, the support available to them in using the Horizon system, and the Horizon system itself. There is a possibility that these letters of claim will be followed up with Court proceedings, in which case POL will have a duty to disclose to the claimants all documents relevant to the claims, even if they might adversely affect POL's defence. This obligation extends to soft copy documents (emails, and all documents stored on the IT network, hard drives, handheld devices and so on) as well as hard copy documents and manuscript notes.

Please ensure that this communication reaches everyone in your department who has access to, or who is in a position to create, documents relating to the issues arising in the claims (as set out more fully below). I have started a list of teams which we believe may hold relevant documents. The list is attached: I should be grateful if you would let me know of any other teams which might hold documents relevant to the claims.

Document preservation

POL must take immediate steps to preserve all documents which might potentially be relevant to these claims. "Relevant" documents are those which contain information about the issues below:

- * the subpostmasters or branches in question (i.e. Scott Darlington of Alderley Edge branch, Julian Wilson of Astwood Bank branch, Terrence Walters of Hockley branch or Thakshila Somaskandarajah of Splott Road branch). This list will increase if further letters of claim are received, and we will of course let you know if and when further claims are received

- *the recruitment of subpostmasters

- * the training given to subpostmasters

- * the support given to subpostmasters in using the Horizon system, including, but not limited to, the Helplines

- * the integrity of the Horizon system

- * POL's branch accounting procedures

Please note that no historic time limit applies, so that all documentation within these categories should be preserved, regardless of when it was created.

Could each of you please inform the members of your teams who hold or create documents in these categories that they should not delete or destroy any documents in these categories until further notice.

Lesley, in relation to documents stored electronically, could you please ensure that all routine document destruction policies relating to the teams who create potentially relevant documents are suspended. If this will involve significant expense or inconvenience, please let me know and we can consider further how best to comply with our obligations in this regard.

We will also liaise with Iron Mountain in relation to their routine document destruction policies. Again if suspending those for relevant files will involve disproportionate expense we will consider this further with our lawyers.

It is important that you keep a note of any routine document destruction policies that you suspend within your department, and the dates on which they are suspended, together with a note of any other steps you take to ensure that your department complies with the above requirements.

Document creation

It is very important that we control the creation of documents which relate to any of the above issues and which might be potentially damaging to POL's defence to the claims, as these may have to be disclosed if these claims proceed to litigation. Your staff should therefore think very carefully before committing to writing anything relating to the above issues which is critical of our own processes or systems, including emails, reports or briefing notes. We appreciate that this will not always be practicable, however.

Where it is necessary to create a document containing critical comment on these issues, it will in certain circumstances be possible to claim privilege over the document, so that POL will not have to disclose it in any proceedings. As litigation is now a distinct possibility, the document will be privileged if its dominant purpose is to give/receive legal advice about the litigation or to gather evidence for use in the litigation. This also applies to communications with third parties - i.e. with other organisations - provided they are confidential and their dominant purpose is as set out above. All of the following steps should be taken in order to maximise the chances of privilege attaching to the document:

- * If the dominant purpose of the communication is not to obtain legal advice, try to structure the document in such a way that its dominant purpose can be said to be evidence gathering for use in the litigation;
- * Mark every such communication "legally privileged and confidential";
- * If you are sending the document to someone, state in the covering email/memo/letter that you are not waiving privilege by doing so;
- * Request that the recipient of a communication confirm that the document will be kept confidential and that he/she will not forward it to anyone else;
- * Think very carefully before "replying to all" on an email - do all the recipients need to see the communication?
- * Where possible and appropriate, copy a member of Legal Services into the communication, and make clear that you are doing so to enable them to advise on the content. Please note that copying a member of Legal Services into the communication alone will not necessarily suffice.

If in doubt, call Legal Services before committing anything to writing which relates to these issues and contains critical wording.

Information required to respond to letters before action

The letters before action make a number of allegations and we intend to provide a robust response to each of them. We are working with our external lawyers to gather all the evidence we need to do so. Please note that we need this information to present our own case – the documents which have been requested by the subpostmasters to help them formulate their own case will not be gathered until they have demonstrated that the documents are relevant and undertaken to pay our costs of collating them.

The attached schedules show the information required to draft a robust response to their allegations. There are four schedules in total at this stage: one which deals with the allegations made in all four letters before action and three relating to the individual claimants. We are still working on a schedule for the fourth claimant, whose letter before action was received most recently.

The volume of information required is significant, so in order to make this fact-finding exercise as manageable as possible, our external lawyers have highlighted in yellow the information which it is absolutely necessary to gather in the next week or so. The information which is not highlighted is less urgent. Jon Longman in POL Security has been tasked with gathering this information but he is encountering some difficulties from various business areas in getting

responses back quickly. Please would you support Jon as much as possible in this process by stressing the importance of this exercise to your staff. It is vital that we obtain this highlighted information as soon as possible.

Please telephone me if you would like to discuss any of this.

Kind regards

Emily Springford
Principal Lawyer - Dispute Resolution
Postline **GRO**
Mobex **GRO**

First Floor, 35-50 Rathbone Place
London W1T 1HQ