POL00065473

Message

From: Jane MacLeod GRO
on behalf of Jane MacLeod GRO
Sent: 03/08/2015 08:46:02
To: Amanda A Brown GRO
Subject: FW: Sparrow

Amanda

Please sort & let Avene know that Patrick is on hols.

thanks

Jane MacLeod
General Counsel
Ground Floor
20 Finsbury Street
LONDON
EC2Y 9AQ

Mobile number: GRO

From: Avene O'Farrell
Sent: 03 August 2015 09:17
To: Alisdair Cameron; Jane MacLeod; Mark R Davies
Cc: Ruth Phillips; Amanda A Brown; Louise Chatfield
Subject: FW: Sparrow

Hi all,

Paula is quite free tomorrow, so what time will work best for a conference call, probably best to avoid too early in the morning.

Jane/Mark – Paula is happy for Patrick and Angela to join too if helpful.

Best,

Avene

From: Paula Vennells
Sent: 03 August 2015 08:59
To: Mark R Davies
Cc: Alisdair Cameron; Jane MacLeod; Avene O'Farrell; Tom Wechsler
Subject: Re: Sparrow

Hi all.

First of all, thanks for the heads up and your very sensible views.

I've a number of questions/requests, which if I get chance once we leave the mountain ranges I'll try to send. In the meantime, I'd like us to brainstorm some options (inc ones we find unpalatable) and do pros and cons for each. At the very least we must show BNR that we have given it plenty of consideration. Can you work on

POL00065473

today and Avene will set up conference call for tomorrow - that should give us time to discuss/ for further work before I see BNR.

My view at present (subject to revisiting options) is similar to yours: ie., there is little more we could have done and we need to continue to manage carefully as we are doing. We should be prepared to play a long game; nb., if necessary that might mean not closing down the mediation option, to avoid being pushed into something more radical.

Lastly, the political angle is as important for us to get right as the legal. BNR is in a difficult place in three ways: Andrew Bridgen as you point out, the PM because of a small majority, and the fact we/she rely on a 'secondary' Commons minister.

Looking forward to seeing you all soon.
Paula

Sent from my iPhone

On 3 Aug 2015, at 09:10, Mark R Davies <mark.r.davies GRO wrote:

> Hi all
>
> I've been thinking about this at the weekend and agree broadly with Al.
>
> There is a political element to this as well. BNR is discomfited because Bridgen is a Tory MP when govt has tiny majority. He also chairs a key committee which will be overseeing work she is directly responsible for. So our approach should focus on Bridgen as much as possible.
>
> He has responded to our (fourth) offer to meet him and his constituent (Rudkin) and agreed to put the offer to Rudkin.
>
> So we should keep up the pressure here and I think also consider how we can get the reality out there: could we brief Govt lawyers on the individual cases in confidence so BNR has full picture? Can we do the same with BBC lawyers?
>
> I've thought about trying to hook in with a journalist to counter brief but it is hugely risky in my view. But we should discuss.
>
> Mark
>
> Mark Davies
> Communications and Corporate Affairs Director
> Post Office Ltd
>
> Mobile: GRO
>
> On 3 Aug 2015, at 08:00, Alisdair Cameron <alisdair.cameron GRO wrote:
>
> > Thanks Jane. My feeling is that anything we give that is process oriented – another review etc – will not satisfy our critics but simply make them hungrier. Our position today should be, I think, "You can't make them happy with this stuff, the only way to reduce the noise is to hold your nerve and let them go to law if they have a case." I am very supportive of getting another MP in there to balance Bridgen. The issue in BNR's

POL00065473

mind, turns, I suspect, on Panorama, which airs while she is on holiday. I also gently reminded officials last week that we are still playing nice but that doesn't have to be the case with the others making stuff up and breaching confidentiality. Would we, for example, start counter-briefing a couple of journalists, using some of the MPs who felt Bridgen misled them? Al

---

From: Jane MacLeod
Sent: 02 August 2015 18:30
To: Paula Vennells
Cc: Alisdair Cameron; Mark R Davies
Subject: Sparrow

Paula

Apologies for interrupting your holiday, but I wanted to give you a heads up on further Sparrow developments while you have been away, and which you will need to be aware of before Thursday.

In summary, the Minister has had incoming from Andrew Bridgen last week, as a result of which she has asked for a meeting with you this week (likely to be Thursday) and has asked for 'options'. Both Al and I have had conversations with BIS regarding this, and Mark and I will be working further on this over the next few days, and will brief you as soon as you are back in the office.

The background to this week's issue is as follows:

- As I think you are aware, although SS have now completed their work and we have agreed to mediate all cases which do not involve a court finding, the majority of applicants have now advised that are withdrawing from mediation pending some sort of government sponsored enquiry. We have written to them asking them to re-engage with us, but stating that if we have not heard from them by early September, we will consider that they have withdrawn permanently from the Scheme.

- Last Monday (27th) we wrote to Second Sight advising that as their work had concluded, they should return all documentation to us in accordance with the terms of the confidentiality undertakings contained in their Engagement letter. We also addressed a data protection point which is not relevant to this discussion, but may become an issue going forward.

- It is clear that following receipt of that letter, Second Sight (in breach of their confidentiality undertakings) ensured that Andrew Bridgend was immediately aware of our instruction to return/ destroy materials, and he then complained to the Minister that we were destroying materials. As a result, I wrote to the Minister on Wednesday and have given her an undertaking that any materials returned to us by SS would be held by Bond Dickinson. This undertaking was (mis)-reported in the Sunday Telegraph today:

POL00065473

"The Government assured MPs in June that an independent report had found "no evidence" of difficulties with the Horizon IT software used in 11,500 post offices. However, the authors of the report have now written to ministers to complain that their findings have been misrepresented.... Mr Bridgen said he had asked ministers to order the Post Office to pass its evidence to a firm of solicitors to ensure it was not destroyed. The minister responsible, Baroness Neville-Rolfe, told Mr Bridgen last week that she had taken up the issue with the Post Office, which had agreed to pass on its evidence." http://www.telegraph.co.uk/news/uknews/royal-mail/11778288/Post-Office-under-fire-over-IT-system.html)

- I spoke to Laura Thompson from BIS on Friday and asked what she thought the issues were from the Minister's perspective. The messages from LN-R are clearly mixed and Laura wasn't really clear whether the concerns were as to merit or process. The three points I took away are:

- 'no one is opining on the merits of the case'
- LN-R wants something to happen
- LN-R wants options.

The latter two are consistent with the conversation that Al had with BIS on Tuesday. We have proposed (and had accepted) a further meeting between Post Office and the Minister this week (likely to be Thursday) and subject to your thoughts, this should be you, plus Mark and me.

- I have also suggested to Laura that we will:

- prepare a pack for the Minister which we will send ahead of the meeting, and which we will then talk to in more detail in the meeting.
- ask CEDR if they would be prepared to speak to either LN-R or BIS regarding their observations of the mediation process which they conduct. In particular why mediations are 'failing' (we have 8/20 mediations which failed to reach a resolution). CEDR issued us a letter on Friday setting out their observations of the process and have confirmed that they would be prepared to meet LN-R/BIS. Their letter is consistent with the one they issued in March. It confirms that one of the issues is that applicants expect the scheme to be about compensation and are therefore dissatisfied when that is not the outcome.
- reach out to the MPs that we have spoken to and see if they would be prepared to have a discussion with LNR about their observations. Patrick has initiated this and we are waiting to hear back.

- As regards 'options' –we are all very nervous about this, particularly as it is unclear whether the issue is 'merit' or process. The focus now seems to be on 'non-criminal cases' given that the CCRC is reviewing criminal cases. The difficulty is that a review as to 'merits' effectively replicates a judicial process, and is not a process that we could deliver in so far as we do not have access to the applicants' materials, so we are only

POL00065473

able to give 'our side'. This doesn't really take us any further than what we have done to date through the investigation and review process undertaken by SS.

- There are 3 law firms who have, over the last 3-4 years, been instructed to act for multiple applicants; however to date, nothing has emerged from that process (and indeed, despite assertions from JFSA that there are many other affected postmasters, no one new has come forward other than those who originally sought to be included in the scheme). We have already funded each applicant in so far as we have (a) paid Second Sights' costs to review each applicants' file, and (b) made a contribution towards the applicants' professional adviser's costs of preparing for mediation.

- As you are aware, we have had over 40 applicants lodge Data Subject Access Requests ('DSARs'). I don't have with me the split of criminal/non-criminal cases, nevertheless my expectation is that these materials will make their way to the various law firms that are now involved with a view to those firms considering whether there are grounds for a civil action (possibly a class action) against PO.

- It is clear that disgruntled applicants (JFSA, Bridgen and others) believe that we should be paying compensation. Accordingly any 'option' that does not result in compensation is bound to fail to meet expectations and will only prolong the issue. Financial settlements have been made in certain cases through mediation, although this is not a pre-determined outcome.

- I am therefore struggling to identify what further 'options' are available that we could propose that would be an appropriate use of PO money (eg I am not advocating payments to applicants outside the mediation process) in addition to the significant amounts that we have already spent, or that would give rise to a different outcome. Clearly the Minister is entitled to call for some kind of public enquiry at government cost but again, she would need to be certain that this will produce a different outcome from that already available to applicants. Details of what we have spent to date (including though mediation) will be included in the briefing pack.

We are meeting with Laura tomorrow (Monday) so that we can review where we have got to. Laura & Richard Callard are briefing LN-R on Tuesday on another matter, and Laura is concerned that Sparrow will come up.

We will brief you on developments as soon as you are back in the office, but should you wish to discuss, we are all available to do so.

With apologies for interrupting your holiday,

Kind regards,

Jane.

POL00065473

<< OLE Object: Picture (Device Independent Bitmap) >>

Jane MacLeod
General Counsel
Ground Floor
20 Finsbury Street
LONDON
EC2Y 9AQ

Mobile number: GRO