

Message

From: Reid, Tom [GRO]
on behalf of Reid, Tom [GRO]
Sent: 05/08/2015 15:04:56
To: Rodric Williams [GRO]
CC: BARTY, Susan [GRO]
Subject: Legal Letter for Panorama [CMCK-UK.FID8673510]
Attachments: Legal Letter - Redline - 5 August 2015.docx; Legal Letter to BBC Panorama(207343057_7).DOCX

Dear Rodric,

Further to our call, we attach a revised draft of the legal letter and a redline to show our changes from the last version you reviewed. Please do let us know if you have any comments.

We have also given some further thought to the question of whether to have an off-the-record meeting with the BBC and, in particular, whether to disclose documents relating to Jo Hamilton's case.

There is certainly some potential merit in holding the meeting. The disclosure of the POL Investigation Report that includes the references to theft and fraud is likely to be forceful and may help to sow some significant seeds of doubt in the BBC's mind regarding the veracity of the allegations that they are considering broadcasting. It is difficult to assess the likelihood of the Panorama programme being dropped (or the Jo Hamilton piece being dropped or substantially amended). The BBC has invested significant time and effort into preparing the programme and therefore one cannot discount the risk of them blithely continuing with the programme in its present form.

One must also consider the other associated risks. As discussed on the phone, any disclosure should be heavily caveated. It should be made clear that the disclosures are being made on a strictly confidential basis, that no copies or records of the documents should be made and that such disclosure should not constitute a waiver of the privilege in the disclosed documents or any other documents. It may be advisable to ask the BBC to sign up to a suitable agreement along these lines.

Notwithstanding such provisions, there is a risk of the BBC disclosing the contents of the document particularly to Jo Hamilton. There are two broad concerns we can envisage with this.

First, Jo Hamilton may claim that, by failing to disclose this document, POL has withheld evidence in her trial. This is perhaps of limited concern, not least because the evidence runs contrary to her position and, in any event, POL is considering disclosing this to the CCRC. However, this disclosure may fuel the allegation that POL has other relevant documents that it has not disclosed and which might include documents negative to POL's position.

Secondly, Jo Hamilton may state that this disclosure is a breach of the confidentiality obligations between POL and her. This may well involve a degree of hypocrisy but the fact that Jo Hamilton may have disclosed information is not necessarily an excuse for POL to do the same. This is a significant reputational risk. Other postmasters may be reluctant to sign up to confidentiality terms with POL. It may also encourage other parties to make disclosures which may otherwise be covered by confidentiality obligations (justifying it on the basis that POL clearly disregards its own confidentiality obligations).

These risks, particularly the reputational risk, must be weighed up against the likelihood of the BBC breaching its obligation and the benefit that may be gained by making such a disclosure to the BBC.

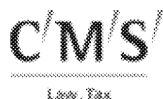
We would acknowledge that this is finely balanced.

Kind regards,

Tom

**Tom Reid
Associate**

T **GRO**
F
E tom.reid@ **GRO**



CMS Cameron McKenna LLP | Cannon Place, 78 Cannon Street | London EC4N 6AF | United Kingdom

www.cms-cmck.com
www.cms-lawnow.com

CMS has 59 offices around the world, located in Aberdeen, Algiers, Amsterdam, Antwerp, Barcelona, Beijing, Belgrade, Berlin, Bratislava, Bristol, Brussels, Bucharest, Budapest, Casablanca, Cologne, Dubai, Dusseldorf, Edinburgh, Frankfurt, Geneva, Glasgow, Hamburg, Istanbul, Kyiv, Leipzig, Lisbon, Ljubljana, London, Luxembourg, Lyon, Madrid, Mexico City, Milan, Moscow, Munich, Muscat, Paris, Podgorica, Prague, Rio de Janeiro, Rome, Sarajevo, Seville, Shanghai, Sofia, Strasbourg, Stuttgart, Tirana, Utrecht, Vienna, Warsaw, Zagreb and Zurich.

CMS Cameron McKenna LLP is a member of CMS Legal Services EEIG (CMS EEIG), a European Economic Interest Grouping that coordinates an organisation of independent law firms. CMS EEIG provides no client services. Such services are solely provided by CMS EEIG's member firms in their respective jurisdictions. CMS EEIG and each of its member firms are separate and legally distinct entities, and no such entity has any authority to bind any other. CMS EEIG and each member firm are liable only for their own acts or omissions and not those of each other. The brand name "CMS" and the term "firm" are used to refer to some or all of the member firms or their offices. Further information can be found at www.cmslegal.com

CMS Cameron McKenna LLP is a limited liability partnership registered in England and Wales with registration number OC310335. It is a body corporate which uses the word "partner" to refer to a member, or an employee or consultant with equivalent standing and qualifications. It is authorised and regulated by the Solicitors Regulation Authority of England and Wales with SRA number 423370 and by the Law Society of Scotland with registered number 47313. A list of members and their professional qualifications is open to inspection at the registered office, Cannon Place, 78 Cannon Street, London EC4N 6AF. Members are either solicitors or registered foreign lawyers. VAT registration number: 974 899 925. Further information about the firm can be found at www.cms-cmck.com

The contents of this e-mail (including any attachments) are confidential and may be legally privileged. If you are not the intended recipient of this e-mail, any disclosure, copying, distribution or use of its contents is strictly prohibited, and you should please notify the sender immediately and then delete it (including any attachments) from your system. Notice: the firm does not accept service by e-mail of court proceedings, other processes or formal notices of any kind without specific prior written agreement.
