

Message

From: Rodric Williams [/O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=RODRIC WILLIAMSE9C114F4-B03F-4595-B082-CE89BE5C79D47B]
Sent: 13/08/2015 14:24:54
To: Mark Underwood [GRO] [/O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Mark Underwoo222a42ec-51a8-4dfa-a353-dcea512679657b4]; Mark R Davies [/O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Mark R Daviesa80d7269-659b-41d0-9c80-68d9de4fa7c5d38]; Melanie Corfield [/O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Melanie Corfi1de623c2-38b2-49fb-ae9a-12e4b20d626720c]
CC: Jane MacLeod [/O=MMS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Jane MacLeod01e4066c-e8db-4a0c-b4f9-1cff9a3d100849c]
Subject: FW: BBC Panorama programme

Pls see BBC Legal response below, which says:

- it's an editorial matter
- BUT they might be able to give reassurance around how material can be used
- that's for a discussion between PO and Panorama
- they need any material by 3pm tomorrow

I've talked to Jane and am about to get CMS's view on how we could take this fwd.

Mark D – are you available to discuss once I've done so? We'll need you for the editorial team if we do go forward....



Rodric Williams
Solicitor, Corporate Services

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GRO
GRO

From: Roger Law [GRO]
Sent: 13 August 2015 14:50
To: Rodric Williams
Subject: BBC Panorama programme

Dear Mr Williams,

I am writing further to our previous email exchanges in relation to the Post Office's ("PO") wish to provide the BBC ("BBC") with further documents and information which, as I understand it from your email of 12 August relates to two issues namely, to adopt your wording, an allegation that that PO did not have sufficient evidence to bring the criminal charges it did, and, secondly, that the decision to bring certain charges was motivated by financial recovery.

Before addressing that issue, however, I must correct one point. In your email you say that PO raised with Karen Wightman the possibility of the BBC reviewing various confidential documents provided that PO [and BBC] could agree a suitable way to maintain their confidentiality. You say that Ms Wightman would not consider this unless the disclosure could be broadcast.

However, Ms Wightman is entirely clear that this does not accurately reflect the position. She says that what actually happened was that Mark Davies offered to brief her, off the record and in confidence, about the post masters whose cases PO knows are likely to be featured in the programme. He said this offer would require being signed off from within the PO, but said he wanted to brief her in that way as he felt the PO was being disadvantaged by the confidentiality it owed to individuals. Ms Wightman said that it would be difficult to accept such a briefing without being provided with the documentary evidence which might underpin it, in order that normal journalistic due diligence be carried out. She pointed out that the cases under discussion were already in the public domain. She also said that it would be difficult to accept the condition that the results of such journalistic due diligence could not be reported. In so far as Mark Davies was concerned that was the end of the matter, given that he did not at that point have internal PO clearance to brief her in the way suggested or to provide her with any documentation and that he could not agree that the results of such a briefing either with documents or without them could be reported in the programme.

Turning now to the issue of the provision of further documents and information which you say PO is only prepared to provide on a confidential basis.

A fundamental difficulty for BBC with what you appear to be proposing is that to provide information or documents in confidence on a lawyer to lawyer basis is, in practical terms, not workable in the circumstances we are concerned with here.

The so-called 'right of reply' ("RoR") process is fundamentally a journalistic one. In that context it is for BBC to decide how to react, in the editorial and journalistic context, to any information which may be provided in the course of any RoR and associated exchanges. There may, of course, be things which are so clear-cut that no further enquiry is needed and the information may be taken entirely at face value. However, it is also quite possible that the information may need or lead to further investigation and enquiry. But that cannot be known in advance.

The inherent difficulty in any journalistic organisation, doing its job properly and rigorously, binding itself to not following up or checking information it may be provided with in the course of a journalistic investigation is self-evident.

If the documentation / information PO has in mind is as clear-cut and conclusive as you suggest, its disclosure to the editorial team should resolve the matter. If, on the other hand it is not, or may not be, so clear-cut and conclusive, a judgement would need to be made as to what impact, if any, it has or may have on the programme's planned content and / or whether further investigation and enquiry is needed.

It is also the case that if the further documentation / information involve further allegations against or information about the post masters, it would be important, as a matter of fairness, for such allegations/information to be put to the individuals concerned for their response.

It is only editorial figures who have the overview and detailed knowledge of the journalistic investigation, research and background information who will be in a position to evaluate the importance and impact, if any, of the further documentation / information and make a judgment in the light of what they already know or have been told.

In the circumstances we are dealing with here, the judgement can only be made on a properly informed basis by editorial figures. They will have the benefit of legal advice in that exercise, but it is neither appropriate nor practicable for the judgement to be delegated to legal advisers.

It may be possible in relation to some material for some degree of reassurance to be given in relation to how that material can be dealt with. However, that would need to be explored by means of a conversation directly between PO and one of the senior Panorama editorial team in a position to give it informed consideration.

Panorama tell me that they would need any material by 3pm tomorrow, Friday.

Yours sincerely,

Roger Law.

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