



Ms K. Kneller
Criminal Cases Review
Commission
23 Stephenson Street
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Date
8 June 2022

RE: DISCLOSURE TO CRIMINAL CASES REVIEW COMMISSION (CCRC)

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Introduction

On 18 March 2022, our legal representatives, Peters & Peters, emailed your colleagues Miles Trent and Anona Bisping to make the CCRC aware that material relevant to the case of Mrs Dorothy Bontoft, referred by the CCRC to the Court of Appeal (Criminal Division) for appeal on 20 December 2021, had just been discovered. Regrettably, this material included transcripts of Mrs Bontoft's cautioned interviews in which she admitted to taking money from her post office to pay bills and fund personal expenses. Clearly, the CCRC would have wanted to review this material in determining whether to refer Mrs Bontoft's case and it may well have led to a different decision by the CCRC in respect of that referral.

It is highly regrettable that Post Office Limited ("**POL**") had not identified and disclosed this material to the CCRC and Mrs Bontoft's family earlier. On discovery of the material, we were, however, able to act swiftly and we co-ordinated with the Court of Appeal and Mrs Bontoft's legal representatives so that Mrs Bontoft's family were able to consider their position and ultimately abandon the appeal before the scheduled court hearing. I have personally written to Mrs Bontoft's husband to apologise.

I have also asked for an explanation as to why this material was not disclosed. This letter sets out that explanation and the remedial steps that POL (together with Peters & Peters) is taking in relation to compliance with s.17 Notices and the Post-Conviction Disclosure Exercise ("**the PCDE**") going forward.

In summary, the issue arose because the version of one repository that Peters & Peters were using for the PCDE – the Electronic Filing Cabinet ("**the EFC**") – appears to contain different material to the version POL holds for its business activities. Peters & Peters had access at the start of the PCDE to the EFC retrieved by solicitors Womble Bond Dickinson ("**WBD**") in the context of the Post Office Group Litigation (*Alan Bates & Others v Post Office Limited*) ("**the Group Action**") and were unaware that POL had access to another, non-identical version. Neither POL nor Peters & Peters were aware that two discrete versions of the EFC existed.

On behalf of POL, I would like to apologise for this oversight and the inconvenience that this issue may have caused. I would like, moreover, to assure the CCRC that POL has taken steps to prevent this issue occurring again.



Background to identification and review of material in the EFC held in WBD's Data Room

The EFC was a repository used by POL for the storage of documentary material relating to Post Office branches. As such, it was identified as a source of material potentially responsive to the CCRC's s.17 Notices and relevant to the PCDE. In January 2020, WBD (who prior to Peters & Peters' instruction by POL, were assisting POL respond to s.17 requests) emailed Peters & Peters and POL regarding the preservation of the EFC. In that email, WBD described how the EFC was used and where it was stored. Peters & Peters understood from that email and from subsequent enquiries with RMG that this was the only version of the EFC ("**the WBD EFC**"). Between April and May 2020, search terms were executed across the WBD EFC. Any material from the WBD EFC that was found to be responsive to those search terms was then reviewed for disclosure.

Peters & Peters' understanding that it had searched the only version of the EFC was recorded in the Disclosure Management Document. That understanding was incorrect. In fact, POL had retained a version of the EFC ("**the POL EFC**") for its business activities, which was not duplicative of the WBD EFC.

Recent discovery of additional documents on the POL EFC

For individuals involved in the Initial Complaint Review and Mediation Scheme ("**ICRAMS**"), the Group Action, and the Historical Shortfall Scheme ("**HSS**"), POL undertook, and continues to undertake, searches for material relevant to the determination of cases in those forums ("**the non-PCDE Searches**"). It appears that the non-PCDE Searches were executed across the POL EFC. The majority of the *Hamilton & Others* appellants had participated in ICRAMS and/or the Group Action and therefore the POL EFC had already been searched for these individuals.

However, the non-PCDE Searches were not conducted for any individual who was not part of ICRAMS, the Group Action, or subsequently the HSS. That included some of the later CCRC applicants and the majority of potential future appellants ("**PFA**s").

As you are aware, an Assurance Exercise was carried out by Peters & Peters into POL's historical compliance with s.17 Notices, the results of which were communicated to the CCRC by letter in August 2021. The distinctions in the content of material available for CCRC applicants depending on whether the non-PCDE searches had been carried out for them were raised in that letter.

During a meeting on 24 September 2021 between POL, Peters & Peters and the CCRC, the CCRC explained that some of the extra material that derived from the non-PCDE searches had been useful to it, especially in cases where POL had no, or very limited, material regarding the original prosecution. Consequently, POL and Peters & Peters indicated that they would assess which documents collated in the non-PCDE searches might be potentially responsive to s.17 Notices and, therefore, of use to the CCRC in reviewing applications made to it by PFA's.



Peters & Peters concluded that some material gathered in the non-PCDE searches might be responsive to s.17 Notices (referred to in correspondence with the CCRC as “**Category A Material**”). POL thereafter carried out searches to identify Category A Material for all CCRC applicants and, to treat all PFAs equally, decided to carry out the same exercise for non-CCRC applicants.

Searches for Category A Material commenced in February 2022 for CCRC applicants and the appellants whose appeals were due to be heard on 22-23 March 2022. This led to the discovery of new documents in the POL EFC for Mrs Bontoft, which were not in the WBD EFC.

Remedial steps

Save for some hard copy branch files, which we await from an external hard copy archive, the searches for Category A Material have been completed for all CCRC applicants and the results have been transmitted to the CCRC. The same exercise is now being carried out for all remaining individuals within the scope of the PCDE and all PFAs prosecuted by agencies other than POL.

Finally, may I again apologise, on behalf of POL, to the CCRC for not identifying this difference in data sets sooner. As I hope is evident from the above, we have conducted a thorough review and have taken appropriate remedial steps to ensure that the CCRC now has material identified from the EFC (and other Category A material, including branch files and transaction corrections) for all rejected, provisionally rejected and current applicants, and we will ensure that disclosure is made from these repositories pursuant to any s17 Notice received from the CCRC in relation to future applicants. Should you have any questions regarding anything raised in this letter, please let me know so we can address them”

Yours sincerely,

Simon Recaldin
Director Historical Matters