

STRICTLY CONFIDENTIAL & SUBJECT TO LEGAL PROFESSIONAL PRIVILEGE

Information Sharing Protocol

BACKGROUND

- A. UK Government Investments (UKGI), on behalf of the Secretary of State for Business, Energy and Industrial Strategy (the Secretary of State), oversees Her Majesty's Government's 100% shareholding in Post Office Limited (POL).
- B. POL is the Defendant in the "Post Office Group Litigation", *Bates & Others v. Post Office Limited*, High Court of Justice, Queen's Bench Division, Claim No's HQ16X01238, HQ17X02637, HQ17X04248 ("Group Litigation"). POL is also assisting the Criminal Cases Review Commission investigate a number of cases where former Post Office agents (most of whom are claimants in the Group Litigation) claim to have been wrongly convicted of a criminal offence prosecuted by POL (the "CCRC Investigations", together with the Group Litigation, the "Postmaster Complaints").
- C. The Secretary of State and UKGI share with POL a common interest in understanding the matters in issue in the Postmaster Complaints, POL's position on them, and the exposures they present to POL's operations, finances and reputation. This common interest is based (among other grounds) on the Secretary of State/UKGI's ownership of POL, the investment they make in POL's activities to support the important public and social purpose POL serves, and the accountabilities the Secretary of State/UKGI have for that ownership and investment to Parliament and to the public.
- D. Consistent with that common interest, POL wishes to share with the Secretary of State and UKGI information about the Postmaster Complaints. That information may include material which is confidential and/or covered by legal professional privilege, and it is expressly agreed by the Secretary of State, UKGI and POL that it is in their common interest to maintain any and all such confidentiality and privilege.
- E. This protocol therefore sets out the basis on which information about the Postmaster Complaints will be shared with BEIS the Secretary of State and UKGI so as to promote their common interest and preserve confidentiality and privilege.

REPORTING

- 1. The Secretary of State has appointed a shareholder representative (Tom Cooper) to POL's Board of Directors who, in his capacity as a director, will receive all information submitted to POL's Board about the Postmaster Complaints. ~~There will be no limitation on the~~ The shareholder representative sharing may share such information with the Secretary of State/UKGI, subject to UKGI applying in accordance with the safeguards set out in Annex B, ~~to ensure such information is not disseminated in a manner which is inconsistent with its privileged nature.~~
- 2. The Secretary of State/UKGI's shareholder representative has been appointed a member of the "Postmaster Litigation Advisory Board Subcommittee" established by

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the Board to receive legal advice on the Postmaster Complaints, and will receive all information submitted to the Subcommittee about the Postmaster Complaints.

- ~~3. Following any meeting of POL's Board at which the Postmaster Complaints are discussed, POL will provide comprehensive, written updates to the Secretary of State/UKGI's legal advisors.~~
- ~~3.~~ 4. Meetings of POL's Board and Subcommittee have been scheduled around the "Group Litigation Timetable" attached as Appendix A to this Protocol. The Group Litigation Timetable may change as a consequence of further case management directions from the court or other developments in the Group Litigation.
- ~~4.~~ 5. POL shall promptly inform a nominated legal advisor to the Secretary of State/UKGI of any significant changes to the Group Litigation Timetable or status of the litigation, including but not limited to immediately promptly notifying BEIS/UKGI of any:
 - ~~a. change of hearing dates;~~
 - a. ~~b.~~ interlocutory or urgent hearings;
 - b. ~~c.~~ potential press coverage of which POL is aware and is material; or
 - c. ~~d.~~ case developments which POL considers could have a significant reputational impact.

~~At all times, the Secretary of State/UKGI reserves the right to request an amendment to the schedule of Postmaster Litigation Advisory Board Subcommittee meetings, or an additional ad hoc written update report, to reflect revisions to the* Group Litigation Timetable*.~~

- ~~6. POL shall provide to the Secretary of State/UKGI all information and assistance required to allow them to respond to any ad hoc queries, including but not limited to parliamentary questions, which may arise from time to time.~~

[DRAFTING NOTE: This para has been removed as it is not required. There is an existing process for this through POL Comms (Public Affairs)]

CONFIDENTIALITY and PRIVILEGE

- ~~5.~~ 7. Information shared between POL, the Secretary of State and/or UKGI about the Postmaster Complaints is likely to include material which is confidential or covered by legal professional privilege.
- ~~8. Confidential information~~
- ~~6.~~ Information about the Postmaster Complaints will be marked as such by POL and treated by UKGI, the Secretary of State, UKGI, their employees and their agents in accordance with the "Obligations in Relation to Confidential Information" set out in Appendix B to this Protocol.
- ~~7.~~ Material which is also covered by legal professional privilege will be considered on a case-by-case basis, and prior to sharing such information, BEIS, UKGI, and POL will agree how such information is to be shared so as to promote the preservation of the privilege. [DRAFTING NOTE: This para has been reinstated following the meeting between POL and Tom Cooper]

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Dated XX April 2018

APPENDIX A – GROUP LITIGATION TIMETABLE

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Date	Trial	Activity	Whom
28.02.2018	CIT	Stage 1 Disclosure and Inspection	Both Parties
01.03.2018	NA	PLSG CALL	NA
02.03.2018	CIT	Agreement of 6 Lead Claimants from Potential 12 Lead Claimants by 4pm	Both Parties
07.03.2018	CIT	Claimants shall serve upon the Defendant a statement of the Factual Matrix	Claimant
12.03.2018	HIT	Counsel to have met to agree Horizon issues	Both Parties
16.03.2018	HIT	Defendant to have provided a demonstration of Horizon	Defendant
16.03.2018	NA	PLSG CALL	NA
	NA		NA
26.03.2018	HIT	CMC to determine Horizon Issues and date ranges for Stage 2 Disclosure	Both Parties
27.03.2018	NA	Board Meeting	NA
28.03.2018	NA	PLSG CALL	NA
30.03.2018	CIT	POL to provide Claimants with hierarchy of management positions	Claimant
30.03.2018	HIT	Claimants to have requested up to 100 Horizon documents	Claimant
06.04.2018	CIT	Defendant shall serve upon the Claimant a statement of the factual matrix	Defendant
11.04.2018	NA	PLSG CALL	NA
13.04.2018	CIT	Lead Claimants to file and serve Particulars of Claim by 4pm	Claimant
13.04.2018	HIT	Defendant to provide disclosure of 100 Horizon documents	Defendant
19.04.2018	HIT	Parties and experts to have met to agree scope for further information / documents required and processed for professor inspecting Horizon	Both Parties
24.04.2018	NA	PLSG SteerCo Meeting	NA
30.04.2018	NA	Security for Costs Hearing	Both Parties + Therium
30.04.2018	CIT	Merits Opinion	NA
01.05.2018	NA	PLSG SteerCo Meeting	NA
04.05.2018	CIT	Parties file at Court a statement of the factual matrix	Both Parties
15.05.2018	NA	PLSG Call	NA

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15.05.2018		BOARD SUBCOMMITTEE MEETING	
18.05.2018	CIT	File and serve individual Defences in respect of the Lead Claimants by 4pm	Defendant
18.05.2018	CIT/HIT	Stage 2 Disclosure and inspection	Defendant
22.05.2018	NA	PROVISIONAL BOARD SUBCOMMITTEE MEETING: TBC	NA
24.05.2018	NA	Board Meeting	NA
30.05.2018	NA	PLSG Call	NA
12.06.2018	NA	PLSG Call	NA
15.06.2018	CIT	Lead Claimants to file and serve Replies to Defences by 4pm	Claimants
22.06.2018	HIT	IT experts to have commenced meetings and discussions	Both Parties
25.06.2018	NA	PLSG SteerCo Meeting	NA
26.06.2018	NA	Board Meeting Away Day	NA
27.06.2018	NA	Board Meeting Away Day	NA
06.07.2018	CIT	File an agreed Statement of Facts in respect of Common Issues by 4pm	Both Parties
17.07.2017	NA	PLSG SteerCo Meeting	NA
18.07.2018	HIT	Claimants to serve provisional / outline document setting out the nature of the allegations in relation to Horizon	Claimants
24.07.2018	NA	PLSG SteerCo Meeting	NA
	NA	TBC	NA
31.07.2018	NA	Board Meeting	NA
01.08.2018	NA	PLSG SteerCo Meeting	NA
08.08.2018	NA	PLSG SteerCo Meeting	NA
10.08.2018	CIT	File and serve Witness Statements in respect of each Lead Claimant and Common Issues by 4pm	Both Parties
31.08.2018	HIT	IT experts to have produced first joint statement	Both Parties
13.09.2018	NA	PLSG SteerCo Meeting	NA
14.09.2018	CIT	Updated Merits Opinion	NA
14.09.2018	HIT	Claimants to serve expert Report	Claimant
19.09.2018	HIT	CMC for outstanding pre Horizon Trial issues	NA
	NA		NA
25.09.2018	NA	Board Meeting	NA

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30.10.2018	NA	Board Meeting	NA
02.11.2018	CIT	Defendant to serve expert report	Claimant
05.11.2018	CIT	Common Issues Trial (listed for 20 days)	Both Parties
23.11.2018	CIT	End of Common Issues Trial	Both Parties
	NA		NA
27.11.2018	NA	Board Meeting	NA
14.12.2018	HIT	Parties shall meet to hold preliminary discussion about their reports	Both Parties
18.01.2019	HIT	Exchange supplemental expert reports	Both Parties
	NA		NA
29.01.2019	NA	Board Meeting	NA
20.02.2019	HIT	Parties experts to have produced second joint statement	Both Parties
22.02.2019	HIT	Pre Trial Review	Both Parties
11.03.2019	HIT	Horizon Trial (listed for 20 days)	Both Parties
26.03.2019	NA	Board Meeting	NA

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APPENDIX B - OBLIGATIONS IN RELATION TO CONFIDENTIAL INFORMATION

- 1.1 **“Confidential Information”** means any and all information—~~directly~~ relating to the Group Litigation and/or CCRC Investigations provided by Post Office Limited (“POL”) in any form or by inspection or observation, whether supplied or received before or after the date of this Protocol, and wherever or however stored, compiled or memorialised, together with any copies of and notes made in respect of such information.
- 1.2 **“Purpose”** means ~~the sharing of information in connection with the common interest referred to in the “Information Sharing Protocol” to which these obligations are appended.~~understanding the matters in issue in the Postmaster Complaints, POL’s position on them, and the exposures they present to POL’s operations, finances and reputation, all of which are of common interest to POL, the Secretary of State and *UK Government Investments * (“UKGI”). This common interest is based (among other grounds) on the Secretary of State/UKGI’s ownership of POL, the investment they make in POL’s activities to support the important public and social purpose POL serves, and the accountabilities the Secretary of State/UKGI have for that ownership and investment to Parliament and to the public.
- 1.3 **“Secretary of State”** means the Secretary of State for Business, Energy and Industrial Strategy
- 1.4 ~~1.3~~ ***UK Government Investments *Limited (the UKGI and the Secretary of State (each a “Receiving Party”))** will:
 - 1.4.1 ~~1.3.1~~ treat and safeguard the Confidential Information as private and confidential;
 - 1.4.2 ~~1.3.2~~ not use or disclose any of the Confidential Information for any purposes other than the Purpose;
 - 1.4.3 ~~1.3.3~~ ensure proper and secure storage of the Confidential Information;
 - 1.4.4 ~~1.3.4~~ handle, preserve and protect such Confidential Information using a high degree of care and at least the same degree of care as the Receiving Party affords its own confidential information of like sensitivity and importance;
 - 1.4.5 ~~1.3.5~~ permit access to the Confidential Information only to such of its executives, officers, employees and professional advisors, and those of the Secretary of State (together **“Individual Recipients”**), as reasonably and necessarily require access to the same in respect of the Purpose and then only on condition that each such Individual Recipient is made aware of the confidential and privileged nature of the Confidential Information and agrees to comply with the obligations imposed on the Receiving Party under this Agreement Protocol.
- 1.5 ~~1.4~~ The Receiving Party shall retain up to date records of all Individual Recipients.

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- 1.6** ~~1.5~~ The Receiving Party will ensure that such Individual Recipients are aware of the relevant obligations under clause ~~1.3~~1.4 of this agreement not to disclose any Confidential Information ~~outside of their respective organisations without prior consultation with POL~~except in accordance with this Protocol.
- 1.7** ~~1.6~~ The Receiving Party shall:
- 1.7.1** ~~1.6.1~~ ensure that all its executives, officers and/or employees, professional advisors and those of the Secretary of State, who work with the Individual Recipients are aware that the Individual Recipients are required to keep the Confidential Information confidential and that if such executives, officers, employees, professional advisors and/or those of the Secretary of State, should obtain any Confidential Information, that they too shall keep it confidential and keep it secure in the same way as the Receiving Party secures its own confidential information;
- 1.7.2** ~~1.6.2~~ promptly and in any event not less than three working days after becoming aware notify POL in writing where any disclosure or unauthorised use ~~or disclosure~~ of any Confidential Information has taken place;
- 1.7.3** ~~1.6.3~~ to the extent that any Confidential Information is proprietary to any third party other than POL, the Receiving Party shall ensure that all Individual Recipients shall only use such Confidential Information for the Purpose unless POL expressly advises otherwise in writing.
- 1.8** ~~1.7~~ These obligations of confidentiality do not apply to any information which in the reasonable opinion of the Receiving Party:
- 1.8.1** ~~1.7.1~~ was known to the Receiving Party before the Confidential Information was provided or made available by or on behalf of POL and was not held under an obligation of confidence to POL whether directly or indirectly;
- 1.8.2** ~~1.7.2~~ is subsequently received from any third party legally in possession of the Confidential Information and who was not restricted from disclosing it;
- 1.8.3** ~~1.7.3~~ is in or subsequently comes into the public domain (other than by breach by the Receiving Party of its obligations under this ~~Agreement~~Protocol);
- 1.8.4** ~~1.7.4~~ is subsequently authorised to be used or disclosed as non-confidential information with the prior written approval of POL;
- 1.8.5** ~~1.7.5~~ is independently ~~legally~~ acquired by an employee, consultant ~~or~~, contractor or professional advisor of the Receiving Party ~~who is not restricted from disclosing it and without access to or use or knowledge of the Confidential Information; in a manner which does not constitute a breach any obligation of confidence;~~
- 1.8.6** ~~1.7.6~~ save where the information is privileged, is required to be disclosed by applicable law or by any court of competent jurisdiction, the rules and regulations of any body or any enquiry or investigation by any governmental, parliamentary, official or regulatory body which:

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- (a) has the power to compel disclosure of the Confidential Information from the Receiving Party or any of the Receiving Party's officers, employees, advisors or consultants; or
- (b) is otherwise lawfully entitled to require any such disclosure, subject always to the Receiving Party complying with Clause ~~1.6~~1.10; or

1.8.7 ~~1.7.7~~ save where the information is privileged, is requested by supervisory or regulatory authorities, to whose jurisdiction the ~~Recipient~~Receiving Party reasonably believes itself to be subject, in connection with their examination or supervision of the ~~Recipient~~Receiving Party, subject always to the Receiving Party complying with Clause 1.10.

1.9 ~~1.8~~—Without prejudice to the generality of Clause ~~1.4.3, 1.8.3,~~ Confidential Information will not be deemed to be in the public domain by reason only that it is known to only a few of those people to whom it might be of interest, and a combination of two or more portions of the Confidential Information will not be deemed to be in the public domain by reason only of each separate portion being so available.

1.10 ~~1.6~~ If the Receiving Party is required pursuant to Clause ~~1.4.6~~1.8.6 or 1.8.7 to disclose any Confidential Information, the Receiving Party will: (i) endeavour, to the extent permitted by law, to provide POL with prompt written notice of such requirement so that POL may assert such interest as it has in the Confidential Information, and (ii) ask the court or regulatory authority to treat the Confidential Information as confidential.

1.11 ~~1.7~~ The parties acknowledge that the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (SI 2004/3391) (EIR) potentially apply to Confidential Information disclosed by POL to the Secretary of State/UKGI. If the Secretary of State/UKGI receives a request for the disclosure of information that includes within its scope Confidential Information, it shall:

1.11.1 (a) ~~inform POL of the request; and promptly, and in any event within three business days of receipt, inform POL's Legal team of the request;~~

1.11.2 (b) ~~allow a reasonable period for representations to be made by POL as to whether prejudice to its interests would occur were the Confidential Information to be disclosed, provided that POL shall make such representations within 5 business days from the date of the notification by the Secretary of State/UKGI; and~~

1.11.3 under no circumstances disclose privileged information.

1.12 ~~1.8~~ The Secretary of State/UKGI will ~~have regard to~~consider any representations it receives pursuant to Clause 1.7(b) but it retains sole discretion as to whether any Confidential Information falls to be disclosed under FOIA or EIR. If POL reasonably challenges any disclosure of Confidential Information and such challenge is not accepted by the Secretary of State / UKGI, then POL may (i) obtain an Order from a Court of competent jurisdiction preventing or restricting the disclosure in question

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and / or (ii) decline any further request to provide privileged information to the
Secretary of State / UKGI.

END

Document comparison by Workshare 9 on 02 May 2018 09:06:20

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Document 2 ID	file://C:\Users\ap6\Desktop\Files\Temp\Comp\POL version.docx
Description	POL version
Rendering set	BD - Basic - colour

Legend:	
<u>Insertion</u>	
Deletion	
Moved from	
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Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	87
Deletions	92
Moved from	2
Moved to	2
Style change	0
Format changed	0
Total changes	183