

POST OFFICE LTD

ADVICE EXPERT REPORT – IMPERIAL COLLEGE, LONDON

Scope of Advice

1. I am asked to advise on matters of apparent concern arising out of the instruction of Imperial Consultants Limited¹ (“ICL”). In this respect I have been referred to an email² written by AH and addressed to CA, LJS, DJ, JG and JS. The writer is concerned with convening a meeting to consider an agenda described in the email thus:

“Agenda should cover

- The business requirement and outcome needed (Jarnail)
- Scope of this work (All)
 - o agree how we steer this or define the requirement correctly so the scope doesn’t get out of control and we allow Imperial College to produce independent report (*sic*)
 - o Is this a full system wide review or verification that audit data correctly reflects counter actions (or something in between)
 - o What has been covered by other work/audits
- Learning and any decisions from Deloitte work that impacts the above (Chris/Julie)
- Scale of work required, current understand of parties involved, likelihood/risks in achieving outcomes (All)
- Approach and next steps (ALL)...”

2. The terms of this unfortunate email are troubling in that, in the eyes of those who would make mischief with POL, they might suggest a desire on the part of POL or

¹ The commercial arm of Imperial College, London.

² 18th July 2014; 16:26hrs.

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a particular POL constituency, to direct the work of ICL in a way which is inimical to both the letter of the “Agreement to Appoint an Expert” document signed between POL and ICL, and to the spirit of that Agreement.

Advice

3. By way of explanation we provide the following comments:

4. Comment in email:

“○ agree how we steer this or define the requirement correctly so the scope doesn’t get out of control and we allow Imperial College to produce independent report...”

There can be no question of steering, or otherwise influencing ICL or their work, for the following reasons:

- i. Paragraphs 4.1 and 4.2 of the “Agreement to Appoint an Expert”, taken together, stipulate that the ICL will notify to POL and POL will provide “...access to any personnel, documentation, information and/or Horizon as is requested in order to produce....the reports.” and POL will provide such access.”
- ii. The primary imperative for instructing ICL as the Expert was to establish and maintain a clearly identifiable independence between POL and an unimpeachable, internationally recognised expert. Such independence is essential: it is required to satisfy all interested parties, including the criminal and civil courts (in civil recovery proceedings), & the JFSA of the integrity of Horizon.
- iii. Any attempt to steer, or to otherwise set the ICL agenda, would render the work useless and amount to a waste of resources. It would also likely result in the ICL’s resignation.
- iv. Were it to emerge that an attempt had been made to “steer or define the requirement correctly” the damage to both any report and to the wider public perception of POL would be incalculable, for it would be suggested that POL had sought to direct the Expert in line with a POL agenda.

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- v. The phrasing of the section: "...so the scope doesn't get out of control and we allow Imperial College to produce independent report..." is frightening. Whilst accepting that the intention is that an independent report is produced, we are concerned that an interested third-party, seeking to make capital from POL in support of their own agenda, (*e.g.* opposing counsel, the media *etc...*) may well construe this as a suggestion that POL had sought to impose limits on ICL, a suggestion again inimical to both the letter of the Agreement and the purpose of the instructing the Expert.

5. Comment in email:

"○ Is this a full system wide review or verification that audit data correctly reflects counter actions (or something in between)"

- i. The parameters of the review will be set by ICL but, in short, this is a full system-wide review. Anything less will not achieve the aims of the project.

6. Comment in email:

"○ What has been covered by other work/audits"

- i. ICL will conduct their own enquiry. Whilst other work/audits may assist ICL in their task, this is a judgement reserved to the Expert.

7. Comment in email:

" - Learning and any decisions from Deloitte work that impacts the above"

- i. ICL will conduct their own enquiry, although the Deloitte work may assist them in the process. This is a matter entirely for ICL.

- 8. Similarly, the scale of work required and the Approach and next steps aspect of this task are all matters solely for ICL.

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Disclosure

9. Two issues arise:

- i. Should a party, in criminal or civil proceedings, seek to challenge the independence of the final ICL report on the basis that the independence of ICL had been compromised, this email would have to be disclosed to the other side. Fortunately so too would be POL's response to the email and (if POL elect to do so) this Advice.
- ii. We are concerned that we have not seen the Deloitte work – this gives rise to the exercise of our disclosure duties. We advise that we be permitted to consider the Deloitte work in this light.

10. In conclusion, we advise that there can be no direct involvement or contact by POL with ICL, save in the process of facilitating cooperation between ICL and Fujitsu and the provision of information and material as requested by ICL. To do otherwise would be to endanger the very process.

Simon Clarke
Senior counsel
Cartwright King Solicitors

23rd July 2014