

Message

**From:** Patrick Bourke [GRO]  
**Sent:** 11/05/2018 17:13:14  
**To:** Rodric Williams [GRO]; Jane MacLeod [GRO]; Andrew Parsons [GRO]  
**CC:** Mark Underwood [GRO]  
**Subject:** Re: Litigation and Appointment - next steps - STRICTLY CONFIDENTIAL

Jane

Just to round this off for our day, and to start yours:

Andy, Rod, Mark and I spoke about this on the phone this afternoon, following my earlier call with Richard.

We're all in the same place - ours is not an objection on principle, but is borne of understandable concerns about how information is/would be handled by UKGI/BEIS.

On that basis, the 4 of us discussed what it would take to give us greater confidence, and some obvious suggestions include named people at UKGI/BEIS, restricted channels etc. Rod, I think with Andy's help, is working something up as a starting point for us to consider with you when you're back.

I subsequently spoke to Richard again, and it seems something like this would work for them too (obviously the more prescriptive we are, the more difficult it will be, but I'm confident we can strike a balance that works for both if we can show equivalent levels of pragmatism). I stressed the point about not wanting to engage in endless work 'updating' them about non-material issues - he (sort of) took the point, but I will doubtless have to do some more work here.

So, not over yet, but hopefully an acceptable end in slightly closer view.

Best wishes

Patrick

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**From:** Rodric Williams  
**Sent:** Friday, May 11, 2018 1:40:57 PM  
**To:** Jane MacLeod; Andrew Parsons  
**Cc:** Mark Underwood1; Patrick Bourke  
**Subject:** RE: Litigation and Appointment - next steps - STRICTLY CONFIDENTIAL

Jane,

I've taken a quick look at the mark up and I don't think we're that far apart. The two sticking points seem to be:

1. Written Updates. UKGI seem to think we're refusing to provide these, when so far as I'm concerned we haven't;
2. Confidential vs Privileged Material. I don't understand why UKGI want to draw a distinction between confidential and privileged information. I can't see any basis for it in law, and UKGI should treat everything they

receive from us on the Group Lit as confidential. I would have thought that was obvious, and certainly easier to manage from their perspective.

We're going to have a quick internal call between us at 3pm this afternoon, after which I'll call Elizabeth (I certainly want to understand why they want to draw the confidential/privileged distinction). A meeting between Paula and Alex Chisholm may be very helpful in getting this across the line.

A meeting to clarify the position

Rod

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**From:** Jane MacLeod

**Sent:** 11 May 2018 12:04

**To:** Rodric Williams <[REDACTED] GRO >; Andrew Parsons <[REDACTED] GRO >

**Cc:** Mark Underwood1 <[REDACTED] GRO >; Patrick Bourke <[REDACTED] GRO >

**Subject:** Fwd: Litigation and Appointment - next steps - STRICTLY CONFIDENTIAL

Andy, Rod

I am very concerned about this, and I'm struggling to see a way through this. Paula has offered a meeting with Alex Chisholm to explain the issues, and that may be the only way we get round this.

I'm afraid I'm at the end of my day, so any further action today U.K. time will need to come from you.

Thoughts?

Jane MacLeod

Group Director Legal, Risk & Governance

Post Office

[REDACTED] GRO

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**From:** O'Neill, Elizabeth - UKGI <[REDACTED] GRO >

**Sent:** Friday, May 11, 2018 8:42:32 PM

**To:** Rodric Williams

**Cc:** Lambert, Helen - UKGI; Jane MacLeod; Callard, Richard - UKGI; Cooper, Tom - UKGI; Clarke, Stephen - UKGI

**Subject:** Litigation and Appointment - next steps - STRICTLY CONFIDENTIAL

Rodric,

I know you spoke to Helen Lambert yesterday who unfortunately is out ill at the moment so I am responding on her behalf.

Thanks you for your markup of the protocol. It looks as though we are still a long way apart on this as your draft doesn't recognise a number of things that are essential to us in order to fulfil our function as shareholder and representative of the SoS.

So I thought it would be helpful to provide some important background to explain the context in which we are operating:

- Alex Chisholm is the accounting officer for POL and as such is accountable to Parliament for its actions. In order to properly fulfil this role, he requires full and comprehensive information on the progress of this litigation. This will not be possible if POL is not willing to provide written updates. We revised our requirements to provide for

updates following reports to the Board to reduce any administrative burden as far as possible, but we cannot agree to a protocol which includes no obligation on POL to report progress in writing in the litigation.

- Tom Cooper's position on the Board and sub-committee cannot be viewed as a suitable substitute for a full and proper reporting mechanism. Tom's role on the board is to represent the views of the shareholder, he is unable to do so effectively if the shareholder is not properly and directly informed and Tom is himself precluded from relaying the most relevant information to the shareholder on the basis that it is legally privileged.
- This protocol was only ever intended to apply to legally privileged information. It is not appropriate to include provisions such as these in respect of confidential information more widely.
- While legal privilege is an exception to FOIA, it is a qualified exception. It is not necessarily the case that all information which is designated and treated as legally privileged will fall within the exception and therefore SoS/UKGI cannot commit never to disclose information which is treated as privileged under this Protocol. It will of course ensure that it complies with its obligations under Appendix 2 clauses 1.10 – 1.12 to inform and receive representations from POL in respect of disclosure wherever possible.

We have redrafted the protocol to reflect these principles and a mark-up is attached. We would like to see it finalised quickly given the litigation timetable. We hope our mark-up is acceptable but if you have comments we would propose a meeting to get it finished.

In relation to the draft submission that we sent you for comments yesterday, this update has been requested by Alex Chisholm to be provided this week. This highlights the practical obligations we are under to provide timely and relevant information to Ministers and civil servants and the reasons for drafting the protocol along the lines we have proposed. Please let us know when we can expect to receive comments.

Many thanks

Elizabeth

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**From:** Rodric Williams [GRO]  
**Sent:** 02 May 2018 16:57  
**To:** Lambert, Helen - UKGI [GRO]; Jane MacLeod [GRO]  
**Cc:** O'Neill, Elizabeth - UKGI [GRO]; Callard, Richard - UKGI [GRO]  
 Cooper, Tom - UKGI [GRO]; Clarke, Stephen - UKGI [GRO]  
**Subject:** RE: Litigation and Appointment - next steps - STRICTLY CONFIDENTIAL

Helen,

Thank you for providing us with your comments on the draft Information Sharing Protocol.

I attach a mark up showing our further amendments, which aim to reflect the discussion had at the meeting with Tom Cooper, Richard Callard and Stephen Clarke last week.

Can I suggest you call me to discuss the attached if you have any areas of concern?

With thanks and kind regards, Rodric



**Rodric Williams**  
 Head of Legal - Dispute Resolution & Brand  
 20 Finsbury Street  
 London EC2Y 9AQ  
 [GRO]

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**From:** Lambert, Helen - UKGI <[REDACTED]>  
**Sent:** 20 April 2018 12:08  
**To:** Rodric Williams <[REDACTED]>; Jane MacLeod <[REDACTED]>  
**Cc:** O'Neill, Elizabeth - UKGI <[REDACTED]>; Callard, Richard - UKGI <[REDACTED]>  
Cooper, Tom - UKGI <[REDACTED]>; Clarke, Stephen - UKGI <[REDACTED]>  
**Subject:** RE: Litigation and Appointment - next steps - STRICTLY CONFIDENTIAL  
**Importance:** High

Rodric, Jane

Having spoken with policy leads at UKGI this morning, there is a strong desire to get this protocol agreed in advance of meeting with the permanent secretary next week.

Could you please let me know as a matter of urgency if you will not be able to provide your thoughts on the policy by COP on Monday.

Many thanks  
Helen

Helen Lambert | Legal Seconddee  
**UK Government Investments**  
1 Victoria Street | London | SW1H 0ET

GRO

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**From:** Lambert, Helen - UKGI  
**Sent:** 19 April 2018 17:07  
**To:** [REDACTED] Jane MacLeod <[REDACTED]>  
**Cc:** O'Neill, Elizabeth - UKGI <[REDACTED]>; Callard, Richard - UKGI <[REDACTED]>  
Cooper, Tom - UKGI <[REDACTED]>; Clarke, Stephen - UKGI <[REDACTED]>  
**Subject:** FW: Litigation and Appointment - next steps - STRICTLY CONFIDENTIAL

Rodric, Jane

Thank you for your draft protocol, a revised draft is attached.

As you indicate below, the case is being proactively managed by the Sir Peter Fraser and as such the timetable is liable to change dramatically. Because of this, we were somewhat uncomfortable with the fact that there would be over two months between dates on which BEIS/UKGI would receive a formal update. To alleviate this, we have suggested a provision that allows BEIS/UKGI to be informed of any material change in the timetable.

We have also clarified somewhat the information which can be disclosed to BEIS/UKGI by Tom Cooper, to ensure that his role on the Board and Sub-committee can be properly utilised, as well as suggesting measures to allow for more expedient sharing of privileged information. We would consider that assessing this information on a case-by-case basis would be disproportionate in the context of the relationship between BEIS, UKGI and POL.

Finally we have requested that legal counsel is provided with written updates to ensure that BEIS/UKGI is able to keep a strong and accurate audit trail in respect of its oversight of the litigation.

We trust that the wording in this protocol assists with your concerns in respect of disclosure of legally privileged information more widely.

We would be happy to discuss these points with you in person or over the phone.

Separately, we have noted that Tom Cooper has been appointed to the board. We assume that you are therefore content with the proposed appointment attached (which I sent to you on 23 March 2018). Is it possible to arrange for this appointment letter to be issued?

Kind regards  
Helen

Helen Lambert I Legal Seconddee  
**UK Government Investments**  
1 Victoria Street I London I SW1H 0ET

**GRO**

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**From:** Rodric Williams [mailto: ]

**Sent:** 27 March 2018 18:44

**To:** O'Neill, Elizabeth - UKGI <[REDACTED]>; Patrick Bourke <[REDACTED]>  
**Cc:** Jane MacLeod <[REDACTED]>; Callard, Richard - UKGI <[REDACTED]>; Cooper, Tom - UKGI <[REDACTED]>; Lambert, Helen - UKGI <[REDACTED]>  
**Subject:** RE: Litigation and Appointment - next steps - STRICTLY CONFIDENTIAL

Elizabeth,

Thank you for sending through your draft protocol identifying the touchpoints in the Post Office Group Litigation on which you would like visibility.

Your touchpoints overlap substantially the matters on which we will be reporting to our Board of Directors as part of our governance for managing the litigation and its risks. That governance includes the establishment of a Board Subcommittee to receive legal advice on Post Office's defence as the litigation proceeds. Tom Cooper, BEIS/UKGI's shareholder representative on the Board, is a member of the Litigation Subcommittee, which will meet shortly before full Board meetings so as to provide the full Board with contemporaneous, focussed updates.

In addition to the updates BEIS/UKGI will receive through its Board and Litigation Subcommittee representation, we are also happy to provide updates on the litigation to BEIS/UKGI's legal advisors. These should be done in-person or via telephone conference call, immediately following the full Board meetings to ensure continuity and consistency of reporting.

The above approach is reflected in the attached revised protocol, which is designed to protect Post Office's claims to legal professional privilege and attaches as appendices:

- a reporting timetable prepared around key stages in the litigation and our Board's calendar; and
- the obligations which will accompany the disclosure of confidential information.

Please note that the litigation timetable is very likely to change in response to the proactive case management being applied by the Managing Judge Sir Peter Fraser. It is also likely to change as the parties respond to developments in the litigation itself. We do not however propose to make any changes to scheduled update meetings unless they require Post Office to consider materially changing its approach to the litigation.



We look forward to receiving your comments on our draft. I am very happy to discuss those in person or over the telephone if you would find that easiest.

With kind regards, Rodric



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**From:** O'Neill, Elizabeth - UKGI [mailto: [REDACTED] **GRO**]  
**Sent:** 01 March 2018 15:51  
**To:** Patrick Bourke < [REDACTED] **GRO** >  
**Cc:** Jane MacLeod < [REDACTED] **GRO** >; Rodric Williams < [REDACTED] **GRO** >; Callard, Richard - UKGI < [REDACTED] **GRO** >; Cooper, Tom - UKGI < [REDACTED] **GRO** >; Lambert, Helen - UKGI < [REDACTED] **GRO** >  
**Subject:** Litigation and Appointment - next steps

Patrick, Helen,

Thank you for your time last week.

As discussed, I attach a standard form litigation protocol along the lines of what we would propose to submit to the Permanent Secretary. As you will see, this sets out various touchpoints in the litigation process, and the steps we intend to take to ensure the Permanent Secretary remains fully informed at each salient point.

If you are able to provide more detail on the litigation timetable, or indeed if you have any comments or suggestions, we would be happy to amend the protocol bespoke to the current litigation.

Separately I'd be grateful, as I indicated in my email to Helen on Monday, if in anticipation of Tom Cooper's appointment, you could let me know if you intend to agree an NDA similar to the one you have with Richard, and if so, forward me the proposed text so that Tom and I may consider.

Kind regards,

Elizabeth

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**From:** Patrick Bourke [REDACTED] **GRO**  
**Sent:** 23 February 2018 15:10  
**To:** O'Neill, Elizabeth - UKGI < [REDACTED] **GRO** >  
**Cc:** Jane MacLeod [REDACTED] **GRO** >; Rodric Williams < [REDACTED] **GRO** >; Callard, Richard - UKGI < [REDACTED] **GRO** >  
**Subject:** Litigation Meeting

Dear Elizabeth

It was a pleasure to meet with you this morning.

I just wanted to confirm that we have understood the need for an appropriately structured information flow in relation to the matters we discussed earlier, and agree that some form of protocol to govern those arrangements makes very good sense.

While recognising that there is no set format in this regard, it would nonetheless be helpful for us to draw inspiration from similar arrangements you have put in place with other ALBs. You kindly offered to share something with us for that purpose.

We will come back to you with our take on how this might work best in our case, having regard to the particularities of our governance arrangements and the litigation itself.

In the meantime, do please feel free to get in touch if there is anything you'd like to discuss.

Kind regards

Patrick



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