POL00153064

From: Patrick Bourke[GRO]
Sent: Wed 02/09/2015 10:16:22 PM (UTC)
To: Jane MacLeod[GRO]
Cc: Mark R Davies[GRO]; Mark Underwood1[GRO]; Melanie Corfield[GRO]; Jane Hill[GRO]; Rodric Williams[GRO]
Subject: RE: BNR letter draft

Hi Jane

Following a recent further (and pretty major I gather) wobble on BNR's part, BIS commissioned a 'full rebuttal' of all Panorama allegations late last week as I understand it and they need that in time for her weekend box which closes at noon on Friday. That is being prepared so that Callard and Thompson can include it as part of the submission they will prepare for her in time for that box. I understand from colleagues on the copy list, as well as from Richard Callard directly today, that while BNR was in a 'good place' following your meeting with her, she has since gone back to wobble mode because of a further email she received last week from our Parliamentary detractors.

That email came from Bridgen, Kevan Jones and, it would appear, Oliver Letwin, requesting an early further meeting on the back of the 'very serious findings' of Panorama's investigation. The two issues they have particularly identified and raised with her are a) the FJ whistleblower's assertion that remote access was not just possible but also took place; and b) what they say is the wilful misrepresentation by us (and as a result by BIS to Parliament) of SS's findings that there were no systemic issues with Horizon. BNR is particularly sensitive about Oliver Letwin's apparent involvement since he is a big figure in Government and a Cabinet Minister. The email goes onto to suggest that someone like Sir Terry Leahy (ex CEO of Tesco when BNR was on the Board) or Stuart (now Baron) Rose (ex CEO of Marks and Spencer) would be 'ideal'. Beyond bizarre, but there you go.

In internal discussions about our key risks and what more, above and beyond simply providing BIS with briefing for them to incorporate into their advice, we (copy addressees) felt that we should also write to her directly. Bluntly, while BIS officials do a sensible enough job of relaying information, we are less confident about their ability/willingness to provide her with proactive, robust advice and deliver difficult messages. The relative lack of challenge by Government of the call for a 'public inquiry' is, alongside the potential BIS Select Committee inquiry, currently the most damaging aspect of the project and we feel it necessary to begin the process of placing a marker down that this is a place that we, as an organisation, can't be taken to. The letter makes it clear why, I hope – CCRC on criminal, availability of courts in non-crim cases and non-exhaustion of rights, cost and absence of locus. We also felt the SoS's office ought to be invited to take a more active interest by copying the letter directly to him.

You make a good point on timing – there is no magic about our letter reaching her at precisely the same time as the blander piece she will get from Callard and Thompson: it just felt sensible that she should have both simultaneously. In addition, we are in any event having to prepare the rebuttal document for the officials to that timescale, so again, it seemed sensible to co-ordinate her receipt of the internal advice she will get from her officials and our own letter. But we could equally hold our letter over to next week if that is your preference – do let me know ?

I should also add that I thought it would be useful for the letter to be quickly reviewed by the QC we used to do the advice we needed before Xmas on PV's concern that making any change to the Scheme might expose us to a successful JR. He was recommended to me by the Legal Director at the Ministry of Justice (an old colleague) and did a fantastic and, frankly, very cheap, job for us then. He is familiar with the ins and outs and I thought his input would be particularly invaluable around the public inquiry section argumentation. He's in France but has agreed (and is currently lined up) to do this for me – it would take him an hour, I reckon. Are you ok with that ?

Rod is working on the bits relating to the individual cases and we ought to be in a position to send you that during the course of tomorrow. We only need a paragraph on each but I agree it needs to be spot on and consistent with what's gone before naturally. My view is that it's just a question of addressing the specific aspect of each case raised by

POL00153064

Panorama (eg insufficiency of evidence in the Hamilton case), rather than a full account of all the intricacies of each case.

Nothing will go anywhere until we've had a) your comments on the letter as it stands; b) your approval of the proposed responses on the allegations in relation to the 3 cases; and c) your views on timing and my QC idea, both of which I raise above.

I hope this helps – sorry it's rather long but it's late at this end and therefore harder to be as concise as I would ideally like to be.

Best wishes

Patrick

From: Jane MacLeod
Sent: 02 September 2015 21:32
To: Patrick Bourke
Cc: Mark R Davies; Mark Underwood1; Melanie Corfield; Jane Hill; Rodric Williams
Subject: Re: BNR letter draft

Patrick

Thanks for this - what was the reason behind the letter suddenly being required and the short timeframe?

If the letter comes from me (which is fine), then I'd like some of the wording to be simplified (personal style point only). I'm travelling today and won't be able to comment until tonight (Thursday morning your time) so I'll look at any further drafts that come through today and will comment on those.

On the individual cases, I'd like to see the proposed wording for this - we did take the minister through this when Paula, Mark & I met her in July and we need to be very careful what we say in writing in case it gets used publicly.

Thanks

Jane MacLeod
General Counsel
The Post Office
GRO

Sent from my iPad
On 3 Sep 2015, at 04:01, Patrick Bourke GRO wrote:

> Colleagues
>
> I attach a DRAFT of the letter to BNR we discussed yesterday. I recognise it needs work but I hope to have faithfully captured the points we discussed. In particular, I have sought to address the issue of the 'public inquiry' suggestion reasonably head on but, I hope, in a way that is not unnecessarily confrontational. But, as we agreed yesterday, I think we can no longer duck it, even if we soften the language down further. There is also the question of who sends it – I have a preference for Jane M (to put my cards on the table – but Jane, you'll have a clear view on this I'm sure – just conscious that we need to get this to BNR for 12 Friday and other senders will entail delay…).
>
> Comments gratefully received. Time is going to be pressured tomorrow, so can I encourage early

POL00153064

contributions if at all possible ?

Kind regards and thanks for your continued help on all the various fronts !

Patrick

Patrick Bourke
GRO

<BNR - Panorama and More - v1.docx>