

IN THE POST OFFICE HORIZON IT INQUIRY

SUBMISSIONS ON BEHALF OF POST OFFICE LIMITED

Preliminary Hearing: 8 November 2021

1. These submissions are provided on behalf of Post Office Limited ("POL") for the purposes of the Preliminary Hearing which is to take place on 8 November 2021.
2. This will be the first public hearing conducted by the Inquiry and POL wishes to take the opportunity to reiterate that it fully and openly recognises that it made serious errors in the past and it apologises unreservedly for those errors. POL is committed to learning from the mistakes which were made and fully supports the work of the Inquiry. POL has been and is seeking to remedy the mistakes of the past and is committed to continuing on that path in the light of the work of the Inquiry, and intends to provide the Inquiry with updates on all relevant developments in this respect including developments since the Inquiry went onto a statutory footing in June 2021.
3. POL recognises that the Inquiry will wish to undertake a thorough investigation of the matters within its Terms of Reference and that the Inquiry will have a lot to do as this will cover a period of many years both when POL was owned by Royal Mail Group and since. It does not seek to advance any submissions on the merits of the Inquiry considering any or all of the particular questions identified at sections A to D of the Notice of Preliminary Hearing issued on 12 October 2021.
4. POL does, however, make the following overarching observations.
5. POL notes that the second theme identified, reliance upon legal advice (at section B) gives rise to different issues to the other themes. This is because section 22 of the Inquiries Act 2005 expressly provides that there is no power to compel the disclosure of evidence or documents which are the subject of legal professional privilege, reflecting the fundamental right of confidence in communications between a client and their lawyer.

6. Unless POL were to waive privilege in at least some part of the legal advice referred to at section B(i) of the Notice of Preliminary Hearing, then there effectively could not be any investigation into those issues, and no adverse inference could be drawn were POL to decline to waive privilege.
7. As the Inquiry would expect, POL was already actively considering the issue of whether it should waive privilege (and, if so, to what extent), irrespective of the Chair's decision whether to amend the List of Issues to include the questions at section B(i). As the Inquiry may equally understand, the issue is by no means straightforward having regard to any litigation in relation to matters which are being considered by the Inquiry, the range of different contexts to which privileged material might pertain, and the potential impact on those proceedings of any waiver of privilege in the Inquiry.
8. POL can assure the Inquiry that it will seek to reach a view in principle on this issue as soon as it reasonably can, but it is unlikely that it will be able to do so, given the complexities involved, before the hearing on 8 November 2021. In reaching its decision POL will aim to be as helpful to the Inquiry as possible.
9. In the event that the Inquiry requires any further assistance on any of the points set out above (or any points raised by any of the other Core Participants in their submissions) POL is, of course, ready to make such oral submissions as may be required, but it does not otherwise currently intend to do so.

29 October 2021