

Litigation Monitoring Protocol – Guidance

*This document is intended to provide a framework for the drafting of a protocol to monitor ongoing litigation, suitable for insertion into a submission to the Permanent Secretary. Note that this is a generic framework only and different cases will require these provisions to be amended. Matters to be considered in respect of certain of these amendments are included in **[NOTE]**s below.*

As and if the case continues, we consider it appropriate to agree a protocol with you and with [the organisation] to ensure that the Department is sighted on the progress and risks associated with this case in a manner that is clear and to the satisfaction of all concerned.

We would be grateful for your views on the following proposal:

UKGI [, alongside [Department] Legal,] will revert to you with further submissions providing an update on the progress of the case and any salient points arising out of it by reference to [three] specific touchpoints, mostly derived from the litigation process (set out in the table below):

Touchpoint	Expected Date	Oversight
[Disclosure]	[]	UKGI submission ([<i>timing</i>]) providing factual update on case progress and [Company/ALB]' Leading Counsel's advice on the merits of [Company/ALB]' position in light of the [disclosure exercise] and setting out risk mitigation strategies that [Company/ALB] is considering.
[Exchange of witness statements]	[]	UKGI submission ([<i>timing</i>]) providing factual update on case progress and [Company/ALB]' Leading Counsel's advice on the merits of [Company/ALB]' position in light of [witness evidence] and an update on progress of [Company/ALB] risk mitigation strategies.
[[Pre-each relevant hearing (>2 weeks)]]	[]	UKGI submission ([<i>timing</i>]) providing factual update on case progress, [Company/ALB]' Leading Counsel's view on state of [preparation for the hearing and proposed press and communication lines] by [Company/ALB]. [UKGI may arrange to send a representative to the hearing if necessary.]
[[Post-each relevant hearing]]	[]	UKGI submission ([<i>timing</i>]) providing factual update on case progress, [Company/ALB]' Leading Counsel's view on [outcome of hearing and any revision required to [Company/ALB] strategy].

[NOTE: consider also whether there are any change of law and/or publication touchpoints which should be included. At all times the view put forward will be that of the Company/ALB Leading Counsel. At no point will UKGI or Department Legal form a view on any of these matters.]



At each of these touchpoints, the progress of the case will be set out and, if necessary, the position and views of the [*relevant bodies / individuals*] (and their relevant legal advisors), as required. [[*Department*] Legal comment and input will be obtained, and they will be present at all key meetings which UKGI have in relation to the litigation, however, they and UKGI will not provide an independent evaluation of the litigation and its risks.