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Our ref: CJ01/65113.1

2 November 2023

Dear Mr Jide (and Ms Smith),

Post Office Horizon IT Inquiry: Post Office Disclosure: Structural Update as Incoming RLR

We write further to our letter of 1st September and in advance of our meeting on 3rd November. We, and I personally, affirm the commitments made in that letter¹.


We welcome the opportunity to discuss these issues, to provide an update, and to discuss with you and with your other Inquiry team colleagues the ways in which Post Office and its external legal advisers can best support the Inquiry.

We thought therefore that it would be helpful to write in advance of the meeting to provide a brief update on certain key issues.

We are conscious that there necessarily continues to be ongoing detailed correspondence, relating both to formal notices that have been served, and the position overall. The purpose of this letter is not to duplicate or to cut across those, but rather to set context for the discussion on Friday, which we hope is helpful.

We have also received on 31 October the Rule 9 request for a witness statement 1st December with a view to a potential hearing during January. The details requested will be covered in full in the statement requested. Many of the issues cross-over with those summarised below.

Agenda for meeting on 3 November

1. We note that a number of topics that Post Office wished to discuss with the Inquiry are not included on the revised agenda. Post Office recognises the need to make best use of the time available and so will pick up a number of its proposed agenda items separately, including the  On that matter, on reflection, we would instead suggest a smaller separate discussion between members of our team and the Solicitor to the Inquiry's team, or between Counsel as has previously been the case.
2. However, Post Office considers that it would be helpful to include under the Inquiry's agenda points (perhaps item 2) the matters set out under "Approach to Disclosure" below and to refer,

¹ Including those at paragraphs 3 and 10 and the final paragraph.

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even if only briefly, to some of the other items under that heading in our original agenda (Harvesting of additional repositories and third party material). We hope that the Inquiry will be content with that.

3. We have already separately provided, as requested, some details about the issues that Post Office wishes to raise under the Inquiry's agenda item 5.

Overview and Objectives

4. We understand, that in terms of timing and process, the Inquiry is seeking to conclude hearings by Summer 2024.
5. The obligation to provide most of the disclosure and evidence and necessarily falls upon Post Office. Some of the factors involved in that are summarised in paragraphs 10 and 11 of our letter of 1st September.
6. Post Office's objective in suggesting operational (formal and minuted) meetings with the Inquiry, including this Friday's meeting, is to set out transparently the current position, how those factors play out operationally, and to seek engagement in order to maximise the effectiveness of Post Office's input to the Inquiry.

Approach to Disclosure

7. In advance of the meeting, we wished to draw together some of the threads from the detailed updates which the Inquiry has been receiving from HSF.
8. A very significant amount of work has been carried out by Post Office and all of its external advisers. As at the date of Gregg Rowan's evidence on 5 September, HSF had a team of over 160 people working on this matter. HSF continues to undertake a substantial amount of work with a large team, working with Peters & Peters. Between Burges Salmon and Fieldfisher we have a team of a similar size to HSF. These are very substantial teams even for firms of this size.
9. The work to gather documents since the Inquiry's establishment has resulted in a very large document pool (60 million plus documents) and intensive work in response to incoming Rule 9 and Section 21 Notices. The amount and depth of source information available to assist in, and evidentially underpin, the exposure of the truth on the TOR issues by the Inquiry is therefore very significant.
10. Further, the structural review, and related ongoing work (referred to by Diane Wills at paragraphs 18 and 108 of her second witness statement and paragraph 13 of our letter of 1st September) has continued. The understanding by Post Office of its data universe continues to evolve along with its knowledge of the component aspects of its Relativity database (for reasons set out in paragraph 11(e) of our letter dated 1 September. This will in reality be an ongoing process.
11. The consequence is that data sources have been, and continue to be, identified and the potential relevance of which will need to be assessed. Post Office believes that its understanding is now significantly advanced. However, because of factors set out at paragraph 11 of our letter dated 1 September and also difficulties with the availability of corporate memory within technical (IT) functions, the development of Post Offices' understanding, and the potential relevance of, further repositories, other data sources, and material not yet either fully harvested or fully reviewed, continues.

12. The Inquiry is aware from the detailed updates given by HSF of some of these items. Those categories include:
- a. Hard copy material
 - b. Electronic information stored on physical eMedia
 - i. back-up tapes in Winchester (in part prioritised for review for phase 4 witnesses)
 - ii. servers and back-up tapes in Chesterfield
 - iii. CDs, thumb drives and flash drives
 - c. Compensation/Remediation evidence (summarised in our letter of 20 October 2023)
 - d. Email data recently established to have not been captured by Mimecast harvesting (latest update in relation to the email data recently established to be held on Microsoft Exchange servers at paragraphs 54 to 59 of HSF's letter of 20 October 2023)
13. Post Office can discuss further each of these categories at the meeting. However, in this letter we expand briefly on the Microsoft Exchange/Mimecast issue given its potential significance. The summary below reflects the best of our understanding (in this case as an external legal team). Investigations continue and we will update the Inquiry as further understanding develops, including any changes.
14. Our understanding is that Post Office, from the point approximately of demerger from Royal Mail Group in 2012, operated an email gateway platform similar to Mimecast called Proofpoint which, amongst other things, created an archive of all emails sent from or to postoffice.co.uk email addresses (sometimes known as 'journaling'). As with other email gateway platforms this was intended, and presumably believed, to capture all emails sent and received along with attachments during its period of operation.
15. We understand that the technology behind the interaction of these email systems is complex and still being investigated. However, subject to that, our current understanding is that Microsoft Exchange (and before that Lotus Notes) is the enterprise mail server that serves individual mailboxes as accessed by users through email applications such as Microsoft Outlook. Mimecast (and before that Proofpoint) operates as an additional gateway between Microsoft Exchange and the onward or inward transmission of emails and in doing so performs various functions including journaling of all inbound and outbound emails as well as providing additional security and resilience features. Conceptually, platforms such as Mimecast should contain the fullest possible record of inbound and outbound emails, particularly given that they have much longer retention periods than Microsoft Exchange. By comparison, unless litigation holds have been applied, Microsoft Exchange mailboxes generally contain emails accessible within live email applications or only recently deleted emails.
16. Around 2016 Mimecast was introduced and we understand that Proofpoint data was migrated into Mimecast. On that logic there should have been continuity of email data in Mimecast from 2012 onwards. We understand therefore that Mimecast was used as the source for email harvesting for the Inquiry and also for the GLO. We understand that 300+ email accounts have been harvested from Mimecast into the various parts of the Relativity database for the various phases of the Inquiry.
17. However, queries by HSF relating to the account of Andrew Wise, and in parallel queries from BSF in the course of work on the section 21 (3) notice have led to investigations by Post Office and by/with KPMG. Those have now established that there are material volumes

of email data that are in Microsoft Exchange but that are not in Mimecast (and which therefore have not been available for search). Post Office has not been able to establish why the Proofpoint to Mimecast transfer did not provide the assumed continuity/completeness.

18. The total scale of this issue is not known because the email boxes harvested for all Phases to date have been taken from Mimecast. Post Office is currently investigating the number of custodians in respect of whom any emails are available on MS Exchange.
19. An indication of scale is however available from analysis from KPMG carried out by them at the instruction of BSF and Post Office against the 13 of the 19 individuals named in the section 21 (03) Notice identified to have had Exchange accounts (6 of the 19 individuals do not appear to have had Exchange accounts). The latest analysis indicates that there are approximately 363k parent emails that are not held in Mimecast. That is after deduplication following the standard forensic deduplication approach. That does not indicate the number of documents that are potentially responsive to section 21 (03), or which require review.
20. In the light of those findings, the 13 (S21(03)) named email accounts are being reviewed. We will discuss at the meeting the approach that we are taking to prioritisation and de-duplication in the first instance to maximise the speed of that review to get any further responsive evidence to the inquiry. We will also explain the further steps available after that prioritised review. The steps and the interaction between them and critical path (and resource relative to other key Inquiry priorities) fall into the category of operational key issues on which we hope to be able to engage to agree the approach which best meets the Inquiry's objectives.

Irrelevant to 12 January 2024 disclosure hearing

Page 5
2 November 2023

Irrelevant to 12 January 2024 disclosure hearing

We hope that the overview in this letter is helpful in framing the context for the discussion on 3^d November and, Post Office hopes, ongoing operational engagement to maximise the effectiveness of its support for the inquiry in its essential work.

We look forward to speaking tomorrow.

Yours sincerely

GRO

Chris Jackson

Partner
BURGES SALMON