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Response to JFSA Request for Delegated Authority As Regards Costs of Legal Action 14 October 2011

Request

We request POL IC approval for delegated authority to [Kevin Gilliland] to approve the initiation of legal action and subsequent legal costs in defence of challenges made by Shoosmiths (Access Legal). These challenges are on behalf of former subpostmasters who have been dismissed for financial irregularities and who have challenged the integrity of the Horizon system in their defence. POL is at an early stage of action, however, costs of defence for the current "Letters Before Action" are estimated at [£ xx] and the current upper estimate of costs, should more cases proceed, is [£ xx].

Background

Throughout the last 10 years, the Horizon accounting system has been subject to a number of unfounded criticisms in the national press. It has also faced questions in the Houses of Parliament and allegations in court by former subpostmasters and their legal defence teams. Post Office has consistently won its prosecutions, and presiding judges have made statements which had been expected to deter further baseless allegations, however, the challenges continue to be made.

The situations have arisen in a minority of cases where POL has dismissed a subpostmaster for financial irregularities and the subpostmaster has claimed that it was the accounting records that were wrong due to IT issues, rather than that money had been stolen.

Current Situation

Shoosmiths (Access Legal) are acting for several former subpostmasters. These individuals come together in the JFSA (Justice For Subpostmasters Alliance). POL has now received commonly worded "Letters Before Action" from Shoosmiths on behalf of 4 former subpostmasters. These are precursors to claims for damages against POL. They request significant materials to be disclosed.

POL had around 20 cases which it wished to take to court, where the defence blamed Horizon. POL is confident that Horizon is not at fault, however, some of the predicted legal costs outweighed the debts being pursued. POL could not economically justify individual cases but to abandon such cases risked giving unwarranted credence to the jfsa's allegations.

The counter claims have now brought these to a head. POL now has to defend onerous requests from Shoosmiths and consider its response to all the cases above.

Steering Group

POL has now established a steering group chaired by Rod Ismay and involving representatives from Legal, IT, Network and Security, with reference to Press Office and other teams as considered necessary.

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Proposals regarding legal action will be submitted by that group, based on legal advice and with relevant input from stakeholders as regards the reasonableness and relevance of requests for information received.

The terms of reference of the group are as follows:

To propose to the defined business decision makers, and subsequently manage, a co-ordinated litigation plan to address existing challenges and deter future challenges in the most pragmatic and efficient manner. This group to review the status of the overall response and to be empowered to make decisions on tactical matters.

Updates to POL IC

Noting papers will be submitted to POL IC as considered necessary by either the Steering Group or POL IC.