



Information Rights Team
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Our reference: FOI2022/00190

John O'Sullivan
request-818045-98bd2e5b@whatdotheyknow.com

25 May 2022

Dear Mr O'Sullivan,

Request under the Freedom of Information Act - FOI2022/00190

Further to my letters dated 31 March 2022 and 3 May 2022, I am writing in response to your request for information received by Post Office Limited ("**Post Office**") on 2 March 2022, which we are dealing with under the terms of the Freedom of Information Act 2000 ("**FOIA**").

I can confirm that Post Office does hold information responsive to your request. See responses below:

1. "I ask the POL to disclose documents concerning the terms of engagement/reference for Peters and Peters to carry out the review of post-conviction disclosure review."

Please find attached the following documents:

- A) Disclosure management document (the "**DMD**"), dated 19 August 2020, which was endorsed by the Court of Appeal and also provided to appellants. This set out how Post Office had been conducting the post-conviction disclosure exercise (the "**PCDE**") and how it proposed to continue to fulfil its disclosure obligations.
- B) Addendum to the DMD, dated 13 January 2020, which was provided to the Court and appellants to update them on the progress of the PCDE and how it was intended to continue.

Redactions have been applied to these documents where Post Office considers the information is exempt from disclosure under FOIA as it constitutes 'personal information' as set out in section 40(2) and section 40(3A)(a) FOIA. These sections provide that any information to which a request for information relates is exempt information if it constitutes personal data and the disclosure of that personal data to a member of the public otherwise than under the FOIA would contravene any of the data protection principles (set out in Article 5(1) of the UK General Data Protection Regulation (GDPR) (Section 40(7) of the FOIA)). Post Office has therefore redacted personal data from the documents where such disclosure to you would contravene the 'lawfulness, fairness and transparency' principle set out at Article 5(1)(a) of the GDPR. Post Office considers that it has no lawful basis on which to disclose to you that redacted personal data since none of the lawful bases listed under Article 6(1) of the GDPR are available to it.

Post Office holds a third document which it considers is responsive to your request: the letter of engagement from Peters and Peters ("**P&P**") to Post

Office in respect of the PCDE, dated 13 February 2020. However, this document has been withheld as Post Office considers it is exempt from disclosure under the following FOIA exemptions:

- Section 42 FOIA - this exempts information in respect of which a claim to legal professional privilege could be maintained. Post Office considers that it can maintain a claim to legal professional privilege in respect of this document and that section 42 is therefore engaged. Section 42 is a qualified exemption and therefore the public interest test has also been considered. Post Office is satisfied that the public interest in maintaining the exemption by withholding the privileged information outweighs the public interest in disclosing it. In reaching this conclusion Post Office has considered a variety of factors for and against disclosure, including the public interest in transparency, and the wider context. Against these factors, Post Office notes in particular the strong inherent public interest in preserving legal privilege which it considers, in all the circumstances, outweighs the public interest in disclosure.
- Section 43(2) FOIA – this exempts information if its disclosure would be likely to prejudice the commercial interests of the public authority or a third party. Some of the information contained in the document relates to the charging rates of P&P, and other sensitive financial information, such as their bank account details. Accordingly, Post Office has concluded that the disclosure of this information would be likely to prejudice the commercial interests of P&P. Since section 43(2) is a qualified exemption, the public interest test has also been considered and Post Office has taken into account that disclosure of this information would allow competitors of P&P an advantage by knowing their charging rates and other financial information. Post Office has concluded the considerations favouring disclosure are outweighed by the public interest in protecting the commercial interests of P&P.

2. *"What exactly did the POL ask Peters and Peters to do when performing the post-conviction review?"*

Please see the attached documents referred to in response to Request 1 above.

3. *"Also, who were the executives asking for this information, why did they require/need the review and to whom at POL or anyone else were the results given?"*

The PCDE was requested by Post Office's Board in January 2020. Further detail is set out in attached documents referred to in response to Request 1 above.

4. *"As the POL is expected to act with transparency and candour, who "deemed it irrelevant" not to capture the ethnicity data? Was it the POL or P and P or someone else?"*

Post Office takes its post-conviction disclosure duties very seriously: if Post Office owes post-conviction duties to an individual then they receive the required material regardless of their ethnicity. In that context the idea of capturing ethnicity data was not "*deemed*" irrelevant by anyone – it is simply irrelevant to the PCDE since ethnicity is irrelevant to whether or not someone

is owed post-conviction disclosure duties. It was, therefore, not necessary for P&P or Post Office to capture ethnicity data.

5. "Please identify the people involved in the "deemed irrelevant" decision process."

As explained above in response to Request 4, no such decision process occurred since ethnicity was not relevant to the PCDE and it was therefore not necessary for ethnicity data to be captured. Accordingly, neither Post Office nor P&P needed to go through a decision process to consider this.

6. "Finally, I would ask that you review the financial reasoning that you gave for not providing the information that I seek. The sums mentioned to extract the data seem very small indeed given the time and money being spent in engaging P and P in all aspects of this scandal".."

You will be aware that Post Office has already carried out an internal review in respect of this request and provided you with feedback on 22 February 2022. As at the date of your request, Post Office's position remains as set out in that correspondence.

If you have any queries about this response, please contact me. Do remember to quote the reference number above in any future communications.

I hope the information I have provided on this occasion is useful, however if you are dissatisfied with the handling of this response, you do have a right to request an internal review. You can do this by writing to the address below stating your reasons for your internal review request.

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Yours sincerely

Andy Jennings
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