



Information Rights Team  
Post Office Limited  
Ground Floor  
Finsbury Dials  
20 Finsbury Street  
London EC2Y 9AQ

Your reference:  
Our reference: FOI2020/00931

Ms Eleanor Shaikh  
[Request-707150-68c4910n@whatdotheyknow.com](mailto:Request-707150-68c4910n@whatdotheyknow.com)

11 March 2021

Dear Ms Shaikh,

### **Freedom of Information Request – FOI2020/00931**

I refer to your recent request for information under the Freedom of Information Act 2000 ("**FOIA**") as follows:

*"On 21st March 2019, POL issued an application to recuse Mr Justice Fraser, the High Court Judge presiding over the Group Litigation.*

*Please can you release minutes (and attendees) of the POL Board and GLO Sub-Committee meetings at which this course of action was discussed and decided.*

*On 9th April 2019, POL delivered an appeal against the Judge's refusal to recuse himself. Please can you release minutes (and attendees) of the POL Board and GLO Sub-Committee meeting at which this course of action was discussed and decided."*

On 13 January 2021, following a request for clarification, you confirmed that with respect to the minutes of the meetings of the Board of Post Office Limited ("**Post Office**") at which the recusal application and appeal were discussed, you were content for material that was unconnected to the Group Litigation to be redacted. With respect to the minutes of meetings of Post Office's GLO Sub-Committee at which the recusal application and appeal were discussed, you said that you wanted to see all sections of the minutes.

On 10 February 2021, in response to this clarified request, we sent redacted copies of the minutes of the meetings of the Post Office Board at which the recusal application and appeal were discussed. We also noted that we had not identified any discussion of either the recusal application or the appeal in the GLO Sub-Committee minutes that had been located.

On 11 February 2021, you sent an email to Post Office in the following terms:

*"Many thanks for your response to my FOI request 2020/00931 and the documents supplied.*

*Both my original request, however, and my response to your request for clarification, stated that I also sought documents pertaining to the GLO Sub-Committee and POL Board decision to appeal Judge Fraser's refusal to recuse himself.*

*Judge Fraser made this decision on 9th April 2019.*

*Please can you release minutes of the Board/GLO Sub-Committee meetings in which POL chose to appeal Judge Fraser's decision not to recuse himself.*

*For clarification, with respect to the minutes (and attendees) of POL's GLO Sub-Committee meetings at which the recusal appeal was discussed, I would like to see all sections of the minutes.*

*With respect to the minutes (and attendees) of POL's Board meetings at which the recusal appeal was discussed, I am happy for you to exclude material that is unconnected to POL's High Court litigation."*

Post Office has conducted further searches for the minutes of Board and GLO Sub-Committee meetings that took place in the period from 1 January to 10 December 2019. These dates were chosen to cover the period leading up to the application to recuse Mr Justice Fraser, up to and including the date on which settlement was reached in the Group Litigation. I attach redacted copies of three additional sets of minutes, which have been identified as responsive to your request.

Redactions have been applied where Post Office considers the information is exempt from disclosure under FOIA under the following exemptions:

1. '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 EU 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.
2. Information which is subject to legal professional privilege under section 42 FOIA. As noted in our previous response to your request, the decision to apply for the recusal of Mr Justice Fraser was not one that Post Office took lightly but was carefully considered. Detailed legal advice was sought from highly respected and experienced lawyers, including more than one senior judicial figure or barrister (as Lord Grabiner QC himself made clear at the hearing) and more than one law firm. That advice is privileged and therefore it has been redacted on the basis of section 42. Since section 42 is a qualified exemption, 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 all the circumstances of this matter, including the context, the number of people potentially affected by the issues, the strength of opinion these issues have given rise to and the public interest in openness and transparency. 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.
3. Information whose disclosure would, or would be likely to, prejudice the commercial interests of any person under section 43 FOIA. Post Office has concluded that there is material whose disclosure would be likely to prejudice

its own commercial interests. Again the public interest has been considered as required for this qualified exemption and Post Office has taken into account the public interest in openness and transparency. However Post Office has concluded that those considerations were outweighed by the public interest in protecting Post Office's commercial interests.

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.

Information Rights Manager  
Post Office Limited  
Information Rights Team  
Ground Floor  
Finsbury Dials  
20 Finsbury Street  
London  
EC2Y 9AQ  
[information.rights@postoffice.co.uk](mailto:information.rights@postoffice.co.uk)

If, having requested an internal review by Post Office, you are still not satisfied with our response you also have a right of appeal to the Information Commissioner at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
Telephone: 0303 123 1113  
<https://ico.org.uk>

Yours sincerely,



Jackie Lawrence  
Information Rights Team  
[information.rights@postoffice.co.uk](mailto:information.rights@postoffice.co.uk)  
[http://corporate.postoffice.co.uk/secure-corporate/about-us/access-to-information/](http://corporate.postoffice.co.uk/secure-corporate/about-us/access-to-information/@postofficenews)  
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