

Response to Assistant Coroner Irvine's Prevention of Future Deaths Report dated 29th January 2021 relating to the death of Thiago Araujo ('the Report')

Introduction

1. Royal Mail Group Limited ('RMG') operates the UK mail system. It is the universal service provider obligated by law to deliver mail once per day, Monday to Saturday, to every Mainland UK postal address.
2. The Report refers to the Post Office. Post Office Limited is a wholly separate legal entity. The two companies were separated in 2012 and now operate independently. Therefore, RMG can make no comment on behalf of the Post Office.

The Inviolability of the Mail

3. Section 104 of the Postal Services Act 2000 ('PSA') states that whilst in the course of transmission by post, a letter, packet, parcel or mail bag and/or their contents are immune from "*examination, seizure or detention as it would have if it were the property of the Crown.*" Therefore, a postal packet is inviolable whilst it is in the mail system i.e. from the point it is posted until it is delivered.
4. It is a criminal offence for a postal operator to intentionally delay or open a postal packet, contrary to his duty and without reasonable excuse, in the course of its transmission by post (Section 83(1) PSA).
5. It is also an offence for a person, intentionally and without lawful authority, to intercept any communication in course of its transmission by post (section 3(1)(a)(iii) of the Investigatory Powers Act 2016('IPA')).
6. Therefore, RMG staff cannot delay, open or otherwise interfere with postal packets unless permitted by law.

Lawful Interception

7. In the circumstances described in the Report, there are only two routes to lawfully intercept postal packets after they are posted and before they are delivered.

Confidential

Option 1 – IPA powers

8. The Police can obtain a targeted interception warrant, a mutual assistance warrant or a bulk interception warrant pursuant to Section 6(1) of the IPA. The communication can also be intercepted pursuant to Section 44 of IPA:
 - (i) if the sender and recipient consent, or
 - (ii) either the sender or the recipient consents and a directed surveillance authority is in force pursuant to Part 2 of the Regulation of Investigatory Powers Act 2000.

RMG is committed to co-operating with the Police and other law enforcement agencies and will always provide assistance to them, as far as the law permits.

9. RMG will also assist the Police by undertaking a controlled delivery i.e. delivering an item with Police Officers in close proximity. This allows the Police to enter the premises immediately after delivery and seize the postal packet using their powers under the Police and Criminal Evidence Act 1984.

Option 2 – RMG's Terms and Conditions

10. Section 83(3) of the PSA states that no offence of opening or delaying the mail is committed if the opening or delay is done in accordance with the terms and conditions applicable to the transmission of the postal packet by post. There are similar provisions within the IPA which make interception, for the purposes of the provision and operation of the postal service, lawful.
11. RMG's terms and conditions clearly state that certain items cannot be carried through the network. A list of these prohibited items can be found at https://personal.help.royalmail.com/app/answers/detail/a_id/96.
12. Certain items are restricted i.e. they may be carried but only if the sender complies with certain conditions. Restricted items, such as lithium batteries, paint and kitchen knives will only be intercepted if the postal packet does not comply with the conditions of carriage (usually how they are packaged).

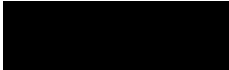
Confidential

13. Training and written guidance is available to RMG staff in relation to the handling of prohibited and restricted items. RMG also operates a Security Helpdesk which staff can contact to report any security or safety issue or seek advice.
14. Where RMG staff receive information, or have cause to suspect, that a postal packet contains a prohibited item which is also illegal (such as controlled drugs, automatic firearms or child pornography) the Police will be contacted (unless the Police are the source of the information). The packet will then be opened and inspected by the Police. The Police will assess the legality of the item and will inform the RMG staff of their opinion and any other information available. If the RMG staff member is satisfied the item is illegal, and therefore prohibited, it will be handed to the Police. As above, we will assist the police in performing a controlled delivery, if requested. If RMG staff are unsure of what action to take they can always contact the Security Helpdesk for advice.
15. If RMG staff receive information, or have cause to suspect, that a postal packet contains a prohibited item which is not illegal per se (such as flammable gas, pesticides or live animals) our staff may open and inspect the contents to ascertain whether the item is prohibited. Where our staff are sure the item is prohibited, RMG has a wide discretion as to the disposal of that item thereafter.
16. However, our staff must be sure the item is prohibited. RMG operates the national mail system. Our primary purpose is to receive, process and deliver postal packets. This includes handling many items which are not dangerous per se but could be used to cause harm. The purpose to which an item, which is not prohibited, might be put is not a consideration for the national postal operator. We must also be careful not to expose our staff to criminal liability by allowing or encouraging them to intercept mail unless it is lawful to do so.
17. Therefore, before any postal packet, suspected to contain prohibited items which are not illegal, is opened, delivery office staff should make contact with the Security Helpdesk for an assessment to be made as to whether interception is lawful. Security Helpdesk staff are provided with written guidance and a process to follow to determine the issue and record the reasons for the decision made. If the item is assessed as prohibited, it will be disposed of appropriately.

Conclusion

18. We are satisfied that, within the restrictions placed upon us by law, our processes for the handling of restricted and prohibited items within the mail system are adequate and appropriate. Therefore, we do not intend to take any action in response to the Report.

19. No specific information has been presented establishing that RMG was asked to intercept, delay or otherwise divert the postal packet concerned. If there is evidence that information was passed to RMG staff and no action was taken, we would be grateful to receive details of what information was passed to our staff and in what circumstances. We will then conduct further enquires.



Senior Legal Advisor
Royal Mail Legal

12th March 2021