

From: [Tim Parker](#) on behalf of [Tim Parker](#) **GRO**
To: [Thomas Cooper](#)
Subject: Re: Litigation governance
Date: 21 March 2021 21:42:51

OK, Tom, let's do that.

Tim Parker

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From: Thomas Cooper **GRO**
Sent: Sunday, March 21, 2021 9:31 pm
To: Tim Parker
Subject: Re: Litigation governance

Tim

Sounds fine. I'll amend and resend to you.

Would you like to forward it to the Board? Probably more appropriate than me sending direct.

Tom

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From: Tim Parker **GRO**
Sent: Sunday, March 21, 2021 8:57:21 PM
To: Thomas Cooper **GRO**
Subject: Re: Litigation governance

Tom,

I think that the most straightforward approach is to circulate this note directly with the Board, explaining that you and I have discussed the matter and I have suggested that you should summarise the current thinking, with a view to discussing the matter at the next Board meeting. I would perhaps change the wording around Declan reporting to the Board "instead of Nick", and anything else that makes it appropriate for the audience. On the assumption that there will be no significant objections, you could press ahead with making arrangements. It would be worthwhile talking to Nick first, who I don't think will have a problem, if it takes away some of the grind from him. However one always has to be careful with changes to responsibilities, even though Nick will remain ultimately responsible as Post Office CEO.

Let me know if content to proceed along these lines.

Best

Tim

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From: Thomas Cooper { GRO
Sent: Saturday, March 20, 2021 7:37:21 PM
To: Tim Parker { GRO
Subject: Litigation governance

Tim

As requested the other day, I'm sending you a note to explain where BEIS and UKGI has reached in its thinking about governance of HSS and the settlement of civil claims arising from overturned convictions.

The background is that we believe that HSS is not getting the governance it needs. It's a high profile, complicated scheme which involves a large amount of taxpayers' money. In relation to shortfall claims in particular, the expected lack of solid evidence to support claims in many cases means that the fairness of settlement offers will be particularly subjective and open to scrutiny by bodies like Sir Wyn's Inquiry, NAO and the BEIS Select Committee. Settlement schemes have also been subjected to judicial review as has already been the case with HSS.

As a result of all the pressures on its time, the Board has not spent significant time on HSS since it was approved last year. It was noteworthy that Zarin made a comment about the need for greater governance when she approved the de minimis payments at the Board on Thursday. Although we don't see the papers we have a sense that the management of HSS within POL itself is not functioning strongly. A good example is the decision on the interest rate that should apply to claims which was a material decision (approx £17m) and which we believe should have been surfaced to the Board.

There is now a strong view in BEIS and UKGI that something needs to be done to strengthen the governance of HSS. Nick's letter to the Minister has also flagged up the need to change the existing arrangements and to try to find some practical steps to take some of the strain not least off Nick himself.

There was a discussion about this at the BEIS Steering Group and I have also had a discussion with senior colleagues at UKGI to discuss ideas. A few options have been discussed:

- * although the Minister has yet to reply to Nick's letter, BEIS is not supportive of taking over the management of HSS or claims arising from overturned convictions. This is based on a principle that Post Office needs to continue to have primary responsibility for handling claims against it but also a view that the practical problems involved in separating the claims from POL would be very significant
- * We have discussed the idea of having a joint committee from POL and BEIS to oversee claims. The view is that this would most likely just confuse the governance as it would cut across standard processes both at POL and at BEIS
- * The preferred route is to recognise that: Declan is operating as the CEO of HSS and could report to the

Board rather than through Nick; the workload for the Board should reduce significantly after the Court of Appeal hearing as decisions about what position POL should take on appeals against convictions should become even clearer than it already is following all the good work the Board has put in over the last year; and the Board might be willing to delegate oversight of the settlement of claims (as opposed to decisions about the stance to take on the appeals themselves) to a sub-committee.

The proposal is that HMG would appoint a lawyer to the Board who would be tasked with Chairing the sub-committee on claims settlement. The sub-committee would deal both with HSS and the settlement of claims relating to overturned convictions. The appointee would of course be a full Director of POL and be responsible for all aspects of the business like the other directors. The appointee would most likely not be a litigator - there is probably a preference for a corporate lawyer who would understand governance processes but would be well placed to assist the Board in providing oversight and challenge to management on legal matters. As the Accountable Person, Nick should be able to reduce his day-to-day involvement but would still need to meet his obligations, so it might be appropriate for Nick to be on the sub-committee.

I'd be grateful for your thoughts. Please feel free to share this with the rest of the Board as well. If this proposal has support then we will need to get the process going for making an appointment which will need to be expedited in order for the individual appointed to be effective in the role.

Tom

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