POL00024700

Message

From: Jane MacLeod GRO

Sent: 20/09/2017 08:23:08

To: Mark Ellis GRO; Mark R Davies GRO; Mark Underwood1 GRO; Angela Van-Den-Bogerd GRO; Tom Wechsler GRO; Patrick Bourke GRO; Rob Houghton GRO

CC: Andrew Parsons GRO; Thomas P Moran GRO; Rodric Williams GRO; Stuart Nesbit GRO

Subject: URGENT - Postmaster litigation -strategic options for CMC. CONFIDENTIAL AND SUBJECT TO LEGAL PRIVILEGE - DO NOT FORWARD.

Attachments: Board briefing re Postmaster Litigation CMC Options (26-9-2017) v3.docx

All

Following the Steering Group last Monday, we briefed Paula, Al and Kevin on the legal advice for the proposed strategy for the CMC and in particular the advice that we should proactively address the contractual issues. As a result of that briefing, and to support that advice, Tom M and I were asked to:

- develop options that we could consider to address the risks should the postmasters be successful in arguing that some or all of the additional duties should be implied into the contract, and
- brief the Board on the legal risks at the Board meeting on Tuesday.

Andy, Tom and I have developed the attached 'report' which I would like to take back to Paula, Al and Kevin by the end of the week to update the advice received. Subject to that discussion, we will then use this as the basis for the legal briefing to the board on Tuesday. The attached is in 3 parts:

a. a short(ish) summary of the options
b. the tactical options for the CMC (Appendix 1) which summarise the options we discussed in the Steering Group last week; and
c. a summary in Appendix 2 of the duties which Freeths seeks to imply, together with possible responses. Many of these suggested responses are unpalatable and would pose challenges from a cost and operational perspective, however we wanted to develop a reasonably comprehensive list that we can then work through over the next 6-12 months so as to be ready with options should we have an adverse findings (and we will commit to bring these 'plans' back to the Board ahead of the substantive hearing on these issues). In essence these are to address the 'existential' risks which Al is concerned about.

Would you please read through the attached paper – and particularly Appendix 2, and let me have any thoughts on whether there are any other options we should include – even if they are unattractive – on any measure!!!

As the attached document- and this email – are privileged, please do not forward. If you would like it sent to any delegate, please ask Rod or me to do so.

Many thanks

Jane

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