

Message

From: Andrew Parsons [GRO]
Sent: 28/08/2018 15:06:34
To: Jane MacLeod [GRO]; Patrick Bourke [GRO]
CC: Mark Underwood [GRO]; Rodric Williams [GRO]; Alice Cookson [GRO]
Subject: RE: Litigation - CONFIDENTIAL AND SUBJECT TO LEGAL PRIVILEGE [WBDUK-AC.FID26896945]

Jane

No comments from me on the briefing below.

Thanks
Andy

Andrew Parsons
Partner
Womble Bond Dickinson (UK) LLP

d: [GRO]
m: [GRO]
t: [GRO]
e: [GRO]

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From: Jane MacLeod [GRO]
Sent: 28 August 2018 13:40
To: Patrick Bourke
Cc: Andrew Parsons; Mark Underwood [GRO]; Rodric Williams; Alice Cookson
Subject: RE: Litigation - CONFIDENTIAL AND SUBJECT TO LEGAL PRIVILEGE

Thanks Patrick.

I think the main area that would be of concern would be the 'risks' section below. Has anyone else commented on the suggested briefing below? If not, I'll send to Paula (minus the risks) tomorrow morning my time (end Tuesday yours)

Thanks



Jane MacLeod
Group Director of Legal, Risk & Governance
Ground Floor
20 Finsbury Street
LONDON
EC2Y 9AQ

Mobile number: [GRO]

From: Patrick Bourke
Sent: 28 August 2018 10:21
To: Jane MacLeod [GRO]
Cc: Andrew Parsons [GRO]; Mark Underwood [GRO]

Rodric Williams <[REDACTED]>; Alice Cookson <[REDACTED]>

Subject: RE: Litigation - CONFIDENTIAL AND SUBJECT TO LEGAL PRIVILEGE

Jane

Hope all well on your side of the world.

Tom A has confirmed that the Minister has signed the information sharing protocol, though not all of his team has. Neither he nor Tom C can attend the meeting with the Minister on Monday and he's saying that if Paula were to go into any detail on the litigation, he'd want to ask lawyers to attend etc.

Can I suggest, in the circs, that we encourage Paula to avoid anything other than clocking the fact it's an issue, and that there's a meeting on 17/10 to discuss in the right forum ?

We can encourage this with Paula at our end, but if you're sending the brief direct to her (could you confirm ?), perhaps you could do the same ?

Best wishes

Patrick

From: Alice Cookson

Sent: 24 August 2018 11:59

To: Jane MacLeod <

Cc: Patrick Bourke <[REDACTED]>; Andrew Parsons <[REDACTED]>; Mark

Underwood <[REDACTED]>; Rodric Williams <[REDACTED]>

Subject: RE: Litigation - CONFIDENTIAL AND SUBJECT TO LEGAL PRIVILEGE

Thanks Jane – that's incredibly helpful.

We will pick up with UKGI and work out what has been said to the Minister.

Does anyone have any further comments on Jane's note below? Otherwise I will add it to the wider briefing pack.

Thanks very much,

Alice



**2017 Winner of the
Global Postal Award for
Customer Experience**

Alice Cookson
Head of Public Affairs

Finsbury Dials
20 Finsbury Street
London EC2Y 9AQ



From: Jane MacLeod

Sent: 24 August 2018 09:53

To: Alice Cookson <[REDACTED] GRO>; Andrew Parsons <[REDACTED] GRO> Mark
 Cc: Patrick Bourke <[REDACTED] GRO>; Rodric Williams <[REDACTED] GRO>
 Underwood <[REDACTED] GRO>
 Subject: RE: Litigation - CONFIDENTIAL AND SUBJECT TO LEGAL PRIVILEGE

Thanks Alice, I'm afraid Rod is on holidays so you get me

While I have tried to keep the following high level, and not reflect legal advice, we need to be mindful of legal privilege issues. To that end please comment on the following and then I will forward it to Paula.

My expectation is that UKGI/BEIS will have briefed the Minister on the litigation, and we have a meeting with the Perm Sec and the Minister on 17 October. We were told specifically that they would be briefed on the litigation so we didn't need to cover the background. So it would be helpful if they would tell us what they've told the Minister, ahead of Paula's meeting, and confirmed that the Minister has signed the Litigation protocol.

Given that the litigation is only one topic in a 45 minute briefing, I would make the following points for Paula (although some of the language will need to be aligned with more public statements) :

- Litigation follows a number of years during which Post Office sought to understand the concerns of postmasters and address their issues. While many of the claims alleged faults with the Horizon computer system, to date no evidence of systemic problems have emerged, rather there is a pattern of operational errors in branch, as well as, in specific cases, where Post Office could have done more to support postmasters.
- Litigation was commenced in early 2017 and involves claims by 561 postmasters. The specific details of their claims have not been provided, and we do not have any details as to the possible quantum of damages that they may seek.
- Litigation is being managed by the Court in phases:
 - Common Issues trial (4 weeks in November 2018) - to determine the proper construction of the contract between Post Office and agents, and whether approximately 21 further terms should be implied into that contract
 - Horizon trial (4 weeks in March 2019) to determine the Horizon issues – the questions to be posed are still being agreed between the respective experts
 - Thereafter, and to be scheduled, one or more trials to determine whether in specific cases Post Office was in breach of contractual and other duties to postmasters, as a result of which postmasters suffered 'damage' and / or loss for which they should be compensated by way of a financial award of damages.
- The key risks in the litigation are that:
 - the Court's decision on one or more of the 'Common Issues' has a material adverse impact on Post Office's operations.
 - as a result of the decision, postmasters either refuse to pay any amounts owing to Post Office, or delay payment, in either case providing Post Office with significant operational and cash flow issues
 - the Court determines that there are systemic issues with the Horizon system, such that transactions between postmasters and Post Office are not seen to be reliable
 - Public opinion goes against Post Office as a result of the decision such that we lose both the trust of the public and of our key (government and commercial) stakeholders.
- We are developing contingency plans to address these risks and will discuss these in more detail at the meeting on 17 October.
- Detailed briefings have been provided to UKGI under a protocol which is designed to protect Post Office's privileged legal advice.

Let me know if you think we need more than this.

Thanks,

Jane



Jane MacLeod

Group Director of Legal, Risk & Governance
Ground Floor
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EC2Y 9AQ

Mobile number: **GRO**

From: Alice Cookson

Sent: 24 August 2018 08:59

To: Jane MacLeod

Cc: Patrick Bourke

Subject: Litigation

GRO

Hi Jane,

I hope you're well.

Patrick and I had a call with Paula yesterday to discuss her meeting with the new Minister, scheduled for the 3rd September.

Included in the briefing is an overview of some of the risks we currently face, one of which is the litigation.

Paula asked if we could get in touch with you directly, to get your thoughts on what Paula should be saying to the Minister at this point. She has asked for a concise one pager on our current position.

As you know, we already have a large amount of material on this, so it may be a case of finessing what we already have - but I wanted to ask your thoughts in the first instance. I appreciate it may be easier for me to talk directly to Rodric, which I am very happy to do.

We have until mid next week to finalise the briefing.

Thanks very much

Alice

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