

Message

From: Thomas P Moran [GRO]
Sent: 23/08/2018 07:13:08
To: Jane MacLeod [GRO]; Mark Underwood [GRO]; Angela Van-Den-Bogerd [GRO]; Mark R Davies [GRO]; Stuart Nesbit [GRO]; Patrick Bourke [GRO]; Rodric Williams [GRO]; Andrew Parsons [GRO]; Mark Ellis [GRO]; Melanie Corfield [GRO]; Nick Beal [GRO]; Amy Prime [GRO]; Catherine Hamilton [GRO]; Julie Thomas [GRO]
Subject: RE: Postmaster Litigation SteerCo Call: Security for Costs Application Decision
Attachments: _DOC_151408437(1)_PLSG Paper - Security for Costs TPM.docx

Jane et al

As am I. Please see attached my comments and questions on the paper you've circulated which I'd be grateful if the team could look at in advance of the meeting.

I will dial in later.

Tom

From: Jane MacLeod
Sent: 23 August 2018 06:27
To: Mark Underwood [GRO]; Angela Van-Den-Bogerd [GRO]; Mark R Davies [GRO]; Stuart Nesbit [GRO]; Patrick Bourke [GRO]; Rodric Williams [GRO]; Thomas P Moran [GRO]; Parsons, Andrew [GRO]; Mark Ellis [GRO]; Melanie Corfield [GRO]; Nick Beal [GRO]; Amy Prime [GRO]; Catherine Hamilton [GRO]; Julie Thomas [GRO]
Subject: RE: Postmaster Litigation SteerCo Call: Security for Costs Application Decision

Thanks Mark

I'm afraid I can't dial in at the time proposed, however I am supportive of making the application:

- We have consistently taken the view that there are risks associated with the current ATE insurance. In practice, that policy is to protect Therium as much as Post Office, and given that the litigation is only possible because of the involvement of Therium, Post Office should not have to take the risk on the ATE policy not paying out.
- While it is possible that the application could 'annoy' the Court, the reality is that the application was made some time ago – so the Court may already be 'annoyed'; and Freeths/Therium have not engaged as they said they would, so there is as much risk on their side as ours.
- The possible costs against us are immaterial in context of the security that we are seeking to obtain.
- A costs order against us, whilst annoying, is unlikely to have a material impact, and is somewhat perverse if they seek and order for security for an equivalent amount, but equally are prepared to sue us for potentially much greater amounts without any certainty that we could pay those higher amounts!

I will drop Paula & Al a note to explain the background and that the Steering Committee will be making the decision today with a view to filing tomorrow. I suspect that their main concern will be around publicity and how we address the concerns already flagged about PO being 'oppressive'. I assume that we have Comms lines ready to run in case? It would be worth circulating those just in case.

I hope this makes sense.

Jane



Jane MacLeod

Group Director of Legal, Risk & Governance
Ground Floor

20 Finsbury Street
LONDON
EC2Y 9AQ

Mobile number: **GRO**

-----Original Appointment-----

From: Mark Underwood **GRO**

Sent: 22 August 2018 16:28

To: Jane MacLeod; Angela Van-Den-Bogerd; Mark R Davies; Stuart Nesbit; Patrick Bourke; Rodric Williams; Thomas P Moran; Parsons, Andrew; Mark Ellis; Melanie Corfield; Nick Beal; Amy Prime; Catherine Hamilton; Julie Thomas

Subject: Postmaster Litigation SteerCo Call: Security for Costs Application Decision

When: 23 August 2018 17:00-18:00 (UTC+00:00) Dublin, Edinburgh, Lisbon, London.

Where: Con Call (details in the body of the invitation) / Northwich (2.18) for those in Finsbury Dials

Dear all,

You will recall the recent discussions at PLSG SteerCos on whether or not Post Office should make an application to the Court to obtain security for its costs from the Claimants. Since it was last discussed at the PLSG SteerCo on 07/08/2018, the Claimants have failed to provide suitable security – in terms of both value and form.

As such, if Post Office still believes it is important to obtain security for its costs, it should make an application to the Court without delay.

WBD have prepared the decision paper embedded below to provide the necessary background / context and enable a decision to be made on tomorrow's 'extraordinary' PLSG call. Although I have not attached the legal documents referred to in the decision paper I am of course happy to circulate them if people would like sight of them.

<< File: _DOC_151408437(1)_PLSG Paper - Security for Costs.docx >>

I have also pasted table to the bottom of this note which summarises, at a very high level, the risks and rewards associated with making the application.

Call details are provided below and I have booked Northwich (2.18) for those who are in Finsbury Dials.

GRO

If you are unable to join the call tomorrow, could I ask that you please let me know what your view on this matter is, or if you are happy to be guided by decision made by those who are able to join the call.

Many thanks, and apologies for the short notice.

Mark

Risks

Rewards (if application successful)

Post Office loses the application and is ordered to pay £50k - £100k in costs.

Post Office gets security for its costs going forward

The application annoys the judge with a "satellite issue" that is not focussed on the substantive trials.

Putting up security places further financial pressure on the Claimants' funder

Distracts resource from trial preparation.

It forces the Claimants to spend time and effort getting a bond in place just before trial

Post Office may be characterised as behaving aggressively / oppressively

Avoids an allegation at the end of the litigation (if Post Office wins) that it failed to protect public money.

Adds another complicated point to be communicated to UKGI

This email and any attachments are confidential and intended for the addressee only. If you are not the named recipient, you must not use, disclose, reproduce, copy or distribute the contents of this communication. If you have received this in error, please contact the sender by reply email and then delete this email from your system. Any views or opinions expressed within this email are solely those of the sender, unless otherwise specifically stated.

POST OFFICE LIMITED is registered in England and Wales no 2154540. Registered Office: Finsbury Dials, 20 Finsbury Street, London EC2Y 9AQ.
