

Message

To: Tim Parker [GRO] Ken McCall1 [GRO] Carla Stent1 [GRO]
Thomas Cooper [GRO] Shirine Khoury-Haq [GRO]
Tim.Franklin1 [GRO]
CC: Alisdair Cameron [GRO] Paula Vennells [GRO]
Veronica Branton [GRO]
Subject: Recusal CONFIDENTIAL AND SUBJECT TO LEGAL PRIVILEGE
Attachments: Post Office - Recusal Note (003)tb. 17.3.19.pdf; 4852_001.pdf; Recusal 2019-3-18 v2.docx

All

As flagged last week, the judgment in the Common Issues Trial was handed down on Friday in substantially similar form to the embargoed draft. We must now turn to the questions as to what are our legal options, and how do we address the consequences of the judgment from an operational perspective?

Board Timetable

We have arranged 2 board calls this week (Monday at 5.15 pm and Wednesday at 12.30 pm) in addition to the scheduled Board meeting on 25 March. We propose that we discuss the 'recusal option' at the Board tomorrow (Monday) evening, as there are adverse consequences if we delay. Wednesday had been proposed to discuss the operational impacts and mitigating plans, however if thought appropriate, this discussion could be addressed at the scheduled Board meeting next Monday.

Recusal

Attached are the following papers:

- Draft paper from me ('Recusal 2019-3-18') which recommends the recusal application and retained counsel;
- Lord Neuberger's preliminary advice ('4852 001.pdf') as to appeal and recusal received on Thursday 14 March; and
- Advice from WBD ('Post Office - Recusal Note'), which has been reviewed by David Cavendar QC and which Lord Grabiner has seen, and verbally endorsed.

The Counsel team, with which I concur, recommend bringing an application for recusal. As set out in the attached papers, this is not without risk. However there are risks of not bringing the recusal application (as set out in both my and WBD's paper), and on balance my view is that the risks of not bringing the application for recusal outweigh those of making the application, although this is a finely balanced consideration, and the Board may consider these risks differently.

Unfortunately Lord Grabiner has a prior commitment and cannot make the 5.15 board call tomorrow. At the time of writing I am hopeful that Lord Neuberger QC will be available to dial in to the Board discussion, notwithstanding he is currently in South America.

I appreciate these are difficult decisions which, ideally, should be made within a very truncated timetable. I am available during most of tomorrow (Monday) should anyone wish to discuss these ahead of the Board meeting.

Kind regards,

Jane

Jane MacLeod

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