

Post Office Limited – Strictly Confidential

POLB 16(2nd)
POLB 16/13 – 16/15

POST OFFICE LIMITED
(Company no. 2154540)
(the 'Company')

Minutes of a Board meeting held at 12.00 noon on 09 February 2016
at 20 Finsbury Street, London EC2Y 9AQ and by telephone conference

Present:

Tim Parker	Chairman
Richard Callard	Non-Executive Director (by telephone)
Alisdair Cameron	Chief Financial Officer
Virginia Holmes	Non-Executive Director
Ken McCall	Senior Independent Director
Carla Stent	Non-Executive Director
Paula Vennells	Chief Executive (by telephone)

In Attendance:

Alwen Lyons	Company Secretary
Jane MacLeod	General Counsel (GC)
Piero D'Agostino	Head of Legal Commercial
Alison Jaap	Head of Design

Apologies:

Tim Franklin	Non-Executive Director
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POLB 16/13

INTRODUCTION

- (a) A quorum being present, the Chairman opened the meeting.
- (b) The directors declared that they had no conflicts of interest in the matters to be considered at the meeting in accordance with the requirements of section 177 of the Companies Act 2006 and the Company's articles of association

POLB 16/14

PROJECT TRINITY

- (a) The CEO thanked the team for the work undertaken on project Trinity and acknowledged the complexity involved in addressing the issues arising from the Front Office IT plans.
- (b) The CFO explained that four key questions had been considered before recommending the Trinity changes to the Board:
 - 1. Would this be the right option commercially and operationally for Post Office?
 - 2. Would the extension of the Fujitsu (FJ) contract on the terms described be in the best interests of Post Office?
 - 3. Could the change be made in a legally compliant way?
 - 4. Would it deliver a long term cost effective relationship with FJ?

Post Office Limited – Strictly Confidential

- (c) The Board discussed the options available and asked for more detail on the termination of the IBM contract.
- (d) The GC explained that the IBM contract specifically permitted termination for convenience and set out a formulaic calculation of amounts payable in the case of exercise. In the current circumstances this resulted in a payment of [IRRELEVANT] to IBM plus the cost of the work already completed. The Board asked if the [IRRELEVANT] could be reduced and the GC advised that this would be difficult to achieve, although the amounts payable for work undertaken to date would need to be negotiated.
- (e) The Board asked which companies might challenge the procurement process. The CFO advised that both [IRRELEVANT] or [IRRELEVANT] would be aggrieved by the decision and that they represented the greatest risk. The numbers contained in the business case included provision for a challenge.
- (f) The Board discussed the length of the proposed contract with FJ. The GC explained that Post Office had proposed an extension to the FJ contract of 4 years with 2 further one year extensions.. However FJ had suggested a 6 year term, with the ability to terminate after 4 years. The GC explained that the risk of a successful challenge would increase if there was a material extension to the term, as a longer term may not be considered a 'modification' of the existing contract, but rather the award of a new contract, in which case the Regulation 72 exemption would not apply. The CEO noted that this risk needed to be considered in light of the benefits that would be obtained from a longer contract.
- ACTION:**
GC
- (g) **The GC was asked to test the impact of a longer term contract period on regulation 72 of the Public Contract Regulations 2015.**
- ACTION:**
CFO
- (h) **The Board asked the CFO to consider whether, and if so, how the termination costs would be disclosed in the Accounts.**
- ACTION:**
GC
- (i) **The GC was asked to consider whether the termination costs would need to be disclosed under an FIO request.**
- (j) The Chairman requested the GC to provide an update on the risk of an action for misfeasance in public office. The GC explained that a complainant, who has suffered a loss, could bring an action for the tort of misfeasance in public office. However there were a number of elements of the tort which would need to be established, one of which was to establish that the Company and/or the Board had acted with malice or bad faith, causing deliberate injury to the

Post Office Limited – Strictly Confidential

complainant. Accordingly, the GC noted that if the Board believed in good faith that a change of contractor was not possible for the economic and technical reasons set out in the Board papers, and that a change would cause significant inconvenience and/or substantial duplication of costs, then it would be more difficult to establish that Post Office or the Board had acted with malice or in bad faith.

- (k) The Board considered the decision to terminate the IBM contract and agreed that it was in the best interests of the Company and although the [IRRELEVANT] termination cost was high, it was a contractual obligation and could be defended if required.

**ACTION:
CFO/GC**

- (l) **The CEO proposed that a review would be undertaken of the initial procurement processes leading up to the decision to award the contract to IBM, to ensure that any lessons from that review were captured. The findings from that review would be reported at the ARC.**

- (m) The CFO stressed that Trinity enabled the Business to remain within its funding plan to March 2018, explaining that the funding post 2018 was still to be agreed.

**ACTION:
CFO**

- (n) **The Board asked, as part of the presentation of the 3 year plan in March, to be provided with a list of projects, their value and the committed spend.**

- (o) After careful consideration, the Board:

Noted the proposal for the termination of the IBM contract and the extension of the Fujitsu contract for Horizon.

Noted the risks and issues arising around delivery and legal and procurement.

Approved the termination of the IBM contract.

Approved the extension of the Horizon contract with Fujitsu on the terms set out in the paper.

Approved the on-off costs of [IRRELEVANT] and the operating costs of £107.3m for the committed minimum contract of 4 years.

Authorised each of the Group Chief Executive Officer (CEO) and the Chief Financial Officer (CFO) to:

Post Office Limited – Strictly Confidential

- finalise the necessary contractual documentation (including the Notice to Terminate and all ancillary documentation) to **IRRELEVANT**
- finalise the necessary contractual documentation to extend the Fujitsu Horizon contract and any ancillary documentation; and
- authorise the execution of all such documentation.

POLB 16/15

CLOSE

- (a) There being no further business, the Chairman declared the meeting close.

GRO

Chairman

Date

24/5/16