

Message

From: Paula Vennells [GRO]
on behalf of Paula Vennells <[GRO]>
Sent: 19/10/2018 12:15:35
To: Ken McCall1 [GRO]; Carla Stent [GRO]; Tim.Franklin1 [GRO]; Shirine Khoury-Haq [GRO]; Cooper, Tom - UKGI [GRO]
CC: Tim Parker [GRO]
Subject: Re: Postmaster Litigation

Dear all,

Important I share our suggested remedies. I have not copied Jane or Al - so please don't forward.

I went through the judgement and the judge's challenge on tone of voice with Jane yesterday.

Jane was not defensive and listened well. She is understandably frustrated and her note to you is a good summary of why.

But the onus is on us to change our tack. We agreed Jane will put the following in place asap:

- 1) speak to the whole team - everyone needs to take a step back and think more carefully about the 'how' not just the 'what'
- 2) she has already spoken to Rod, our litigation lawyer, who saw the submission but didn't spot the wording - no doubt he regrets the error
- 3) future submissions will have a second legal check and the comms team will then read for 'tone'; Jane will read all of the next ones
- 4) meet Andy Burrows, the WBD lawyer who wrote the offending statement; reassure herself that he 'gets' the issue
- 5) meet the QCs and agree how they will redress the tone

I will support Jane, and follow up each action with her next week. Once I've been debriefed on 4), I will call one of the managing partners at WBD, who I know well. I want a personal reassurance.

Let me know if you have questions.

Best wishes,

Paula

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From: Ken McCall1
Sent: Friday, October 19, 2018 12:57:59 PM
To: Jane MacLeod; Carla Stent; Tim.Franklin1; Shirine Khoury-Haq
Cc: Tim Parker; Cooper, Tom - UKGI; Paula Vennells; Alisdair Cameron; Veronica Branton
Subject: Re: Postmaster Litigation

Jane

Many thanks for your note

Disappointing indeed

I would like to suggest we have a full update the next time we are all together

I leave it for Tim to provide his thoughts on a discussion

Best Regards

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From: Jane MacLeod <[REDACTED]>
Sent: Thursday, October 18, 2018 7:41 pm
To: Ken McCall1; Carla Stent; Tim.Franklin1; Shirine Khoury-Haq
Cc: Tim Parker; Cooper, Tom - UKGI; Paula Vennells; Alisdair Cameron; Veronica Branton
Subject: Postmaster Litigation

All

As you may recall we had a Case Management Conference last week (Wednesday 10 October) to hear our application to strike out certain parts of the evidence presented in the witness statements of the Lead Claimants. We received the decision on Monday evening and the decision rejects our application.

The application was decided on case management grounds for which the Managing Judge has considerable discretion; applying that discretion, the Managing Judge set a very high threshold for strike out, and concluded that we had not established to the necessary standard that the Claimants' evidence could never be relevant to the case, given the number of Common Issues; the "considerable legal analysis" each will require; and what our case on those issues is. However he confirmed that he will apply properly the law on admissibility when it comes to trial, and that the November 2018 Common Issues Trial will not rule on matters which concern Horizon or whether Post Office actually "breached" its obligations to the Claimants (matters to which most of the disputed evidence goes and which will be dealt with in later trials).

As previously advised, this is consistent with the Managing Judge's approach of enabling the Claimants to have their "day in court" while applying the orthodox legal position. That said, we lost the application and can expect the Claimants to be awarded their costs when that question is dealt with on the first day of trial.

However in deciding the application, the Managing Judge was very critical of our conduct of the case, intimating that we were not acting cooperatively and constructively in trying to resolve this litigation (which criticism was levelled equally between the parties); and that we had impugned the court and its processes by making the application for improper purposes. This response is extremely disappointing as this has not been our intention, and his challenge as to the purpose for which we had applied for strike out is at odds with comments he had made during various procedural hearings over the past year.

The judgement has been reported today in the Law Gazette (<https://www.lawgazette.co.uk/law/judge-berates-aggressive-litigation-tactics-from-an-earlier-era/5067986.article>). This is the same journal that picked up the Judge's criticism of Post Office tactics around the same time last year.

We are working with Portland and the Comms team to refine our preparation for trial – including our reactive communications plan – in the context of the Judge's remarks.

Please let me know if you would like to discuss this further.

Kind regards,

Jane



Jane MacLeod

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